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17 **UNITED STATES DISTRICT COURT**

18 **NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

19  
20 IN RE: LITHIUM ION BATTERIES  
ANTITRUST LITIGATION

Case No.: 13-MD-02420 (YGR)

MDL No.: 2420

21  
**CLASS ACTION**

22 This Document Relates To:  
23  
ALL DIRECT PURCHASER ACTIONS  
24

**DIRECT PURCHASER PLAINTIFFS'  
SECOND CONSOLIDATED  
AMENDED COMPLAINT**

25  
**DEMAND FOR JURY TRIAL**

26  
**REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED**

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1 Plaintiffs Automation Engineering LLC, Charles Carte, Alfred H. Siegel, not individually,  
 2 but acting solely in capacity as the Liquidating Trustee of Circuit City Stores, Inc. Liquidating  
 3 Trust, First Choice Marketing, Inc., James O’Neil, Alfred T. Giuliano, as the Chapter 7 Trustee of  
 4 Ritz Camera & Image, LLC, The Stereo Shop, Univisions-Crimson Holding, Inc., and Terri  
 5 Walner, individually and on behalf of a Class of all those similarly situated, bring this action for  
 6 damages and injunctive relief under the antitrust laws of the United States against Defendants  
 7 named herein, and allege, based upon the investigation of counsel, including but not limited to a  
 8 review of documents previously produced by certain Defendants to the U.S. Department of Justice  
 9 (“DOJ”) or to the Grand Jury investigating allegations of anticompetitive conduct in the Lithium  
 10 Ion Battery market, and on information and belief, as follows:

11 **I. OVERVIEW**

12 1. Defendants,<sup>1</sup> the world’s largest suppliers of Lithium Ion Battery Cells (defined  
 13 below) globally and in the United States, engaged in a massive conspiracy to fix, raise, stabilize,  
 14 and maintain the prices of Lithium Ion Battery Cells from at least as early as January 1, 2000  
 15 through at least May 31, 2011 (the “Class Period”). The conspiracy also artificially raised the  
 16 prices of Lithium Ion Batteries and Lithium Ion Battery Products (also defined below).

17 2. “Lithium Ion Batteries” or “Batteries,” as used in this Complaint, are cylindrical,  
 18 prismatic, or polymer batteries that are rechargeable and use lithium ion technology. Lithium Ion  
 19 Batteries are an important source of portable energy for many products, such as notebook  
 20 computers, cellular phones, digital cameras, camcorders, power tools, and other devices.

21 3. “Lithium Ion Battery Cells,” as used in this Complaint, are the main components of  
 22 Lithium Ion Batteries. As explained in more detail below, a cell includes the cathode, anode, and  
 23 electrolyte. Individual or multiple cells are assembled or “packed” inside an enclosure. In some

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25  
 26 <sup>1</sup> LG Chem, Ltd., LG Chem America, Inc., Samsung SDI Co., Ltd., Samsung SDI America, Inc.,  
 27 Panasonic Corporation, Panasonic Corporation of North America, Sanyo Electric Co., Ltd., Sanyo  
 28 North America Corporation, Sony Corporation, Sony Energy Devices Corporation, Sony  
 Electronics, Inc., Hitachi Maxell, Ltd., Maxell Corporation of America, GS Yuasa Corporation,  
 NEC Corporation, NEC Tokin Corporation, and Toshiba Corporation (collectively “Defendants”).

1 cases, certain protection circuitry is also added inside the enclosure. The assembled product,  
 2 which is referred to as the “battery,” “pack,” or “module,” is placed inside a device, including into  
 3 Lithium Ion Battery Products, to supply power. Lithium Ion Battery Cells account for more than  
 4 80% of the cost of the Lithium Ion Battery. The assembly of battery cells into battery packs does  
 5 not change the essential character of the cells.<sup>2</sup> Packing simply allows the cells to operate as a  
 6 battery for use in a Lithium Ion Battery Product. In general, cells have no practical use on their  
 7 own and, with few exceptions, cells and batteries are essentially the same from an economic  
 8 standpoint, so that a price fix on the cells is a price fix on the batteries. Global independent safety  
 9 standards in place throughout the Class Period require Lithium Ion Battery Cells and Lithium Ion  
 10 Batteries to be marked with each manufacturer’s name, trade name, or trademark and model  
 11 designation.

12       4.     “Lithium Ion Battery Products,” as used in this Complaint, are products  
 13 manufactured, marketed, and/or sold by Defendants, their divisions, subsidiaries or affiliates, or  
 14 their co-conspirators that contain one or more Lithium Ion Battery Cells manufactured by  
 15 Defendants or their co-conspirators. Lithium Ion Battery Products include notebook computers,  
 16 cellular (mobile) phones, digital cameras, camcorders, power tools, and other devices as the  
 17 evidence may show.

18       5.     During the Class Period, Defendants manufactured, marketed, and/or sold Lithium  
 19 Ion Batteries and/or Lithium Ion Battery Products throughout the United States and the world.  
 20 Defendants collectively controlled between 73% and 95% of the worldwide market for Lithium  
 21 Ion Batteries during the Class Period. The manufacture and sale of Lithium Ion Batteries was  
 22 approximately a \$9.3 billion industry as of 2011 and is predicted to continue growing.

23       6.     Plaintiffs and members of the Class purchased Lithium Ion Batteries and Lithium  
 24 Ion Battery Products from Defendants, their divisions, subsidiaries or affiliates, or their co-  
 25 conspirators during the Class Period. Plaintiffs and members of the Class purchased Lithium Ion

27       2 United States International Trade Commission Rulings And Harmonized Tariff Schedule, HQ  
 563045 (<http://www.faq5.org/rulings/rulings2004HQ563045.html>).  
 28

1      Batteries and Lithium Ion Battery Products from a member of a Defendant's corporate family,  
 2 rather than through an unaffiliated distributor or reseller.

3            7.        As alleged in more detail below, and in violation of the United States antitrust laws,  
 4 Defendants took various acts in furtherance of their conspiracy including engaging in continuous  
 5 communications about confidential business matters that enabled them to set prices collusively,  
 6 reaching customer and product-specific agreements on price, setting price targets and bottom  
 7 prices, coordinating output restrictions, implementing price formulas tied to battery inputs, and  
 8 devising mechanisms to nullify competition in procurements by their customers, amongst other  
 9 conduct.

10           8.        Defendants initially began meeting with each other in or around 1999 with a  
 11 common goal of cooperating to avoid price competition. At these meetings, Defendants discussed  
 12 confidential and competitively sensitive information regarding, among other things, supply and  
 13 demand, market trends, capacity, sales forecasts, and pricing for Lithium Ion Batteries. These  
 14 semi-annual meetings typically occurred in February/March and July/August and lasted several  
 15 hours. Defendants also participated in other meetings, telephone calls, and email exchanges,  
 16 where they reached agreements on pricing and market allocations. Examples of some such  
 17 meetings occurred, among others, on [REDACTED]  
 18 [REDACTED]  
 19 [REDACTED] March 12–16,

20           2002 (various meetings involving Samsung, Sony, Hitachi Maxell, and Panasonic in Japan); July  
 21 28–30, 2004 (various meetings involving Sanyo, NEC, Panasonic, Hitachi Maxell and Samsung);  
 22 February 2006 (meetings involving LG and Samsung); and July 17–19, 2007 (various meetings  
 23 involving NEC, Samsung, Sanyo, Sony, and Panasonic in Japan). These meetings continued until  
 24 May 2011.

25           9.        Two Defendants here already have pled guilty to price-fixing charges in connection  
 26 with the DOJ's ongoing criminal probe into antitrust violations in the Lithium Ion Battery market.  
 27 On September 20, 2013 and October 10, 2013, Sanyo Electric Co., Ltd. and LG Chem Ltd.,  
 28

1 respectively, pled guilty to conspiring to fix prices in violation of Section 1 of the Sherman Act.  
 2 (Case No. 13-cr-472, Dkt. No. 32.; Case No. 13-cr-472, Dkt. No. 28.) Both Defendants pled  
 3 guilty to participating in a conspiracy with other persons and entities engaged in the manufacture  
 4 and sale of cylindrical Lithium Ion Battery Cells, the primary purpose of which was to fix the  
 5 prices of cylindrical Lithium Ion Battery Cells sold in the United States and elsewhere for use in  
 6 notebook computer battery packs. Sanyo Electric also admitted in its guilty plea that Panasonic  
 7 Corporation was its co-conspirator.

8       10. Grand jury documents, produced by certain Defendants in response to criminal  
 9 subpoenas from the DOJ, reveal evidence of Defendants' regular, extensive communications and  
 10 agreements. For example:

- 11       • In March 2004, in a document entitled "President Minutes," LG summarizes its  
 12 agreement to raise prices with Sony, as well as the agreement of other Defendants:  
 13 "Sony plans to raise customer prices as said in Press release on Feb. 24. . . . Sanyo also  
 14 announced price hikes to customers and MBI also plans to do so. Afterwards, we  
 15 received the opinions of NEC/Hitachi Maxell that they would raise prices as well. . . .  
 16 We believe that if LG Chem and [Samsung] cooperated in these moves, the growth of  
 17 the Li-Ion battery industry is likely to go in the right direction."
- 18       • On June 30, 2004, Sony committed to avoiding price cuts in a meeting with Samsung.  
 19 The President of Sony, remarking on Sony's close relationship with Samsung, stated he  
 20 was "[g]lad that [Samsung] and Sony have been competitors, but also [have] been able  
 21 to cooperate with each other at the same times as entities participating in the same  
 22 business," and that he hoped that "such a relationship would continue."
- 23       • On August 9, 2004, in a meeting between LG and Sony, LG stated its willingness to  
 24 actively participate in price cooperation; LG "proposed price cooperation to defend  
 25 prices and to protect the industry, so mentioned that [LG] is also willing to cooperate  
 26 through active participation."
- 27       • In February 2005, Sanyo, Samsung, MBI (Panasonic), GS Soft Energy, NEC and  
 28 Hitachi Maxell agreed to refrain from adding new product lines to rein in supply and  
 stabilize prices.
- 29       • On July 26, 2005, Samsung agreed to set prices for cylindrical batteries at ranges that  
 30 LG proposed. The parties also "[p]roposed to minimize damages caused by  
 31 unnecessary competition in dealing with customers by communicating with each other  
 32 in the future."
- 33       • On October 26, 2005, Panasonic and Samsung agreed to avoid lowering Lithium Ion  
 34 Battery prices.

- 1     • A March 2007 Samsung document entitled “Summary of telephone call with Company  
2       P[anasonic]” stated the following: “Request for price increase staring [sic] this week”;  
3       “Increase (Proposal) Increase: Start 10~13% and hope to end with 8~10%”; “Time to  
4       apply the increase: starting 4/1”; “Other company trend - Sanyo: hopes for 8~10% -  
5       Sony: about 10% (will end with less than 10% since starting with 10%)[.]”  
6
- 7     • Notes from a round of meetings in March 2007 state that “[e]very company showed a  
8       keen sensitivity to increasing profitability[.] Especially Sanyo and Matsushita  
9       [Panasonic] have strong interest in achieving profitability in lithium ion business due to  
10      deteriorating profitability in nickel-hydride battery.”  
11
- 12     • A February 8, 2011 LG email confirms that Samsung “consented to nullification of  
13       [Hewlett-Packard’s] e-auction, and said that the Bottom [price] discussed between the  
14       two companies is \$16.”  
15

11. Defendants thus participated in a combination and conspiracy to suppress and  
12 eliminate competition in the market for Lithium Ion Batteries by agreeing to fix, raise, stabilize,  
13 and maintain the prices of Lithium Ion Battery Cells in the United States. Defendants’  
14 combination and conspiracy constituted an unreasonable restraint of interstate and foreign trade  
15 and commerce in violation of the Sherman Act, 15 U.S.C. § 1.

16. Defendants’ anticompetitive conduct impacted prices for Lithium Ion Batteries and  
17 Lithium Ion Battery Products throughout the United States. As a result of Defendants’ conduct,  
18 Plaintiffs and the Class paid inflated prices for Lithium Ion Batteries and Lithium Ion Battery  
19 Products during the Class Period and have suffered antitrust injury to their business or property.<sup>3</sup>

## II. JURISDICTION AND VENUE

20. Plaintiffs bring this action under Sections 4 and 16 of the Clayton Act, 15 U.S.C.  
21 §§ 15 and 26, to recover treble damages and the costs of this suit, including reasonable attorneys’  
22 fees, against Defendants for the injuries Plaintiffs and members of the Class sustained by virtue of  
23 Defendants’ violations of Section 1 of the Sherman Act, 15 U.S.C. § 1, and to enjoin further  
24 violations.

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25

26 <sup>3</sup> For clarity, Plaintiffs allege that Defendants conspired to fix, raise, stabilize, and maintain the  
27 price of Lithium Ion Battery Cells. The effect of the conspiracy was to raise prices of both  
Lithium Ion Batteries and Lithium Ion Battery Products paid by Plaintiffs and members of the  
Class.

1       14. As set forth below, Plaintiffs purchased Lithium Ion Batteries and Lithium Ion  
 2 Battery Products from Defendants and have standing to bring federal antitrust claims for violation  
 3 of Section 4 of the Clayton Act.

4       15. This Court has jurisdiction over the subject matter of this action pursuant to Section  
 5 16 of the Clayton Act (15 U.S.C. § 26), Section 1 of the Sherman Act (15 U.S.C. § 1), and Title  
 6 28, United States Code, Sections 1331 and 1337.

7       16. Venue is proper in this District pursuant to Section 12 of the Clayton Act (15  
 8 U.S.C. § 22), and 28 U.S.C. §§ 1391 (b), (c), and (d), because a substantial part of the events  
 9 giving rise to Plaintiffs' claims occurred in this District, a substantial portion of the affected  
 10 interstate trade and commerce discussed below has been carried out in this District, and one or  
 11 more Defendants reside, are licensed to do business in, are doing business in, had agents in, or are  
 12 found or transact business in this District. The Judicial Panel on Multidistrict Litigation  
 13 transferred this action to this District on February 6, 2013 (Dkt. No. 1).

14       17. This Court has *in personam* jurisdiction over each Defendant because each  
 15 Defendant, either directly or through the ownership and/or control of its United States  
 16 subsidiaries: (a) transacted business in the United States, including in this District; (b) sold or  
 17 marketed substantial quantities of Lithium Ion Batteries throughout the United States, including in  
 18 this District; (c) had substantial aggregate contacts with the United States as a whole, including in  
 19 this District; (d) was engaged in a price-fixing conspiracy that had an effect on commerce in the  
 20 United States and this District; or (e) purposefully availed itself of the laws of the United States.

21 **III. PARTIES**

22       A. **Plaintiffs Purchased Lithium Ion Batteries and Lithium Ion Battery Products**  
**Containing Defendants' Price-Fixed Cells from a Defendant Conspirator or an**  
**Entity Owned or Controlled by a Defendant Conspirator**

24       18. As described in paragraphs 19–27 below, each Plaintiff purchased one or more  
 25 Lithium Ion Batteries or Lithium Ion Battery Products from a Defendant conspirator or an entity  
 26 owned or controlled by a Defendant conspirator. The purchases identified below were made at  
 27 various times during the Class Period beginning no earlier than January 1, 2000 and ending no  
 28

1 later than May 31, 2011, and include only products that are the subject matter of this Complaint.  
 2 The Lithium Ion Batteries and Lithium Ion Battery Products that Plaintiffs purchased contained  
 3 Lithium Ion Battery Cells that, as described below, are traceable to an entity owned or controlled  
 4 by a Defendant conspirator. As a result, each of the Plaintiffs has standing to bring the federal  
 5 antitrust claim alleged herein.

6       19. Plaintiff Automation Engineering LLC (“Automation”) is a Kansas limited liability  
 7 company with its principal place of business in Kansas. During the Class Period, Automation’s  
 8 relevant purchases include a Lithium Ion Battery Product, namely a Sony VAIO PCG-81114L  
 9 notebook computer containing a Sony VGP-BPS21A Lithium Ion Battery from Sony Style, an  
 10 online storefront of Defendant Sony Electronics Inc., a wholly-owned subsidiary of Sony  
 11 Corporation of America, Inc., which is a wholly-owned subsidiary of Defendant Sony  
 12 Corporation. The Lithium Ion Battery and Lithium Ion Battery Product bear Sony Corporation  
 13 markings. Automation suffered injury as a result of the unlawful conduct alleged herein.

14       20. Plaintiff Charles Carte is a resident of Nevada. During the Class Period, Mr.  
 15 Carte’s relevant purchases include a Sony VGP-BPS2C Lithium Ion Battery for use in a Sony  
 16 VAIO notebook computer from store.sony.com, an online storefront of Defendant Sony  
 17 Electronics Inc., a wholly-owned subsidiary of Sony Corporation of America, Inc., which is a  
 18 wholly-owned subsidiary of Defendant Sony Corporation. The Lithium Ion Battery bears Sony  
 19 markings. Mr. Carte suffered injury as a result of the unlawful conduct alleged herein.

20       21. Plaintiff Alfred H. Siegel, not individually, but acting solely in capacity as a  
 21 trustee, is the Liquidating Trustee of Circuit City Stores, Inc. Liquidating Trust (“the Circuit City  
 22 Trust”). The Circuit City Trust was established on or around November 1, 2010 in connection  
 23 with the bankruptcy proceedings of Circuit City Stores, Inc. and its affiliates in United States  
 24 Bankruptcy Court, Eastern District of Virginia (Case No. 08-35653). Pursuant to the Second  
 25 Amended Joint Plan of Liquidation of Circuit City Stores, Inc. and Its Affiliated Debtors and  
 26 Debtors in Possession and Its Official Committee of Creditors Holding General Unsecured Claims  
 27 (Dkt. No. 8252), and the Circuit City Stores, Inc. Liquidating Trust Agreement (Dkt. No. 8864),  
 28 the Liquidating Trustee has the authority to pursue claims on behalf of the Circuit City Trust for

1 the benefit of its beneficiaries. At all times relevant hereto, Circuit City Stores, Inc. ("Circuit  
 2 City") was incorporated in Virginia and had its principal place of business in Richmond, Virginia.  
 3 During the Class Period, Circuit City's relevant purchases include:

- 4     • Sanyo DBL40AU Lithium Ion Batteries for the Sanyo VPC-HD100 camcorder  
      from Sanyo Fisher, a division of Defendant Sanyo North America Corporation,  
      which is a wholly-owned subsidiary of Defendant Sanyo Electric Co.;
- 5     • Panasonic Lithium Ion Batteries for camcorders and digital cameras from  
      Defendant Panasonic Corporation of North America, a wholly-owned subsidiary of  
      Defendant Panasonic Corporation, including but not limited to models:  
      VWVBG130, CRV3A1B, CRP2PA1B, CR2PA2B, CR2PA1B, CR123APA2B,  
      CR123APA1B, CGRS603A, CGRDU06A1B, CGRD220A1B, CGAS007A,  
      CGAS005A, CGADU21A1B, 2CR5MPA1B;
- 6     • Sony Lithium Ion Batteries for camcorders and digital cameras from Defendant  
      Sony Electronics, Inc., a wholly-owned subsidiary of Sony Corporation of  
      America, Inc., which is a wholly-owned subsidiary of Defendant Sony Corporation,  
      including but not limited to models: NPBG1, NPBK1, NPF550, NPF570, NPF750,  
      NPF750SP, NPF770, NPF950, NPF960, NPF970, NPFA70, NPFC11, NPFD1,  
      NPFE1, NPFF50, NPFF70, NPFG1, NPFH100, NPFH50, NPFH70, NPFM50,  
      NPFM500H, NPFM55H, NPFM70, NPFP50, NPFP70, NPFP71, NPFP90, NPFR1,  
      NPFS11, NPFT1, NPQM71, NPQM71D, NPQM91, NPQM91D, NPFM91;
- 7     • Maxell Lithium Ion Batteries for camcorders and digital cameras from Defendant  
      Maxell Corporation of America, a wholly-owned subsidiary of Defendant Hitachi  
      Maxell, Ltd., including but not limited to models: S005, S004, S002, NP60,  
      NP400, NP40, NP20, NP1, NB4L, NB3L, NB2L, NB1L, M7260CL, M7241CL,  
      M7240CL, M7237CL, M7230CL, M7222, M7220CL, M7216CL, M7214CL,  
      M7212CL, M7211CL, M7206, LI10BP, LI10B, KLIC5001, FUJNP40, FUJNP120,  
      FT1, FR1, ENEL8, ENEL5, ENEL3, ENEL1, DC7465, DC3777, DC3711, CR21B,  
      CR1232B, CR123, BP511, 2CR51B;
- 8     • Hitachi Lithium Ion Batteries from Hitachi America Ltd., a wholly-owned  
      subsidiary of Hitachi Ltd., the parent of Defendant Hitachi Maxell Ltd., including  
      but not limited to models: VMBPL13A, VMBPL27A, DZBP14SW, and DZBP16;
- 9     • Sony Lithium Ion Battery Products, namely notebook computers, camcorders, and  
      digital cameras containing Sony Lithium Ion Batteries, from Defendant Sony  
      Electronics Inc., a wholly-owned subsidiary of Sony Corporation of America, Inc.,  
      which is a wholly-owned subsidiary of Defendant Sony Corporation;
- 10     • Panasonic Lithium Ion Battery Products, namely camcorders and digital cameras  
      containing Panasonic Lithium Ion Batteries, from Defendant Panasonic  
      Corporation of North America, which is a wholly-owned subsidiary of Defendant  
      Panasonic Corporation;

- Samsung Lithium Ion Battery Products, namely camcorders, digital cameras, and notebook computers containing Samsung Lithium Ion Batteries, from Samsung Electronics America, Inc., which is a wholly-owned subsidiary of Samsung Electronics Ltd., which in turn is the single largest shareholder of Defendant Samsung SDI Co., Ltd.
- Sanyo Lithium Ion Battery Products, namely camcorders containing Sanyo Lithium Ion Batteries, from Sanyo Fisher, a division of Defendant Sanyo North America Corporation, which is a wholly-owned subsidiary of Defendant Sanyo Electric Co., Ltd.; and
- Hitachi Lithium Ion Battery Products, namely camcorders containing Hitachi Lithium Ion Batteries, from Hitachi America, Ltd., a subsidiary of Hitachi Ltd., the parent of Defendant Hitachi Maxell, Ltd.

On information and belief, these Lithium Ion Batteries and Lithium Ion Battery Products bore the markings of the respective Defendants. Circuit City suffered injury as a result of the unlawful conduct alleged herein.

22. Plaintiff First Choice Marketing, Inc. (“First Choice”) is a Washington corporation with its principal place of business in Seattle, Washington. During the Class Period, First Choice’s relevant purchases include Sony BPGL65 and Sony BPGL95 Lithium Ion Batteries and Lithium Ion Battery Products, namely Sony high-definition camcorders including but not limited to HVRZ1U, HVRA1U, HVRV1U, and HVRZ7U, from Defendant Sony Electronics Inc., a wholly-owned subsidiary of Sony Corporation of America, Inc., which is a wholly-owned subsidiary of Defendant Sony Corporation. These Lithium Ion Batteries and Lithium Ion Battery Products bear Sony markings. First Choice suffered injury as a result of the unlawful conduct alleged herein.

23. Plaintiff James O’Neil is a resident of California. During the Class Period, Mr. O’Neil’s relevant purchases include a Lithium Ion Battery Product, namely a Sony VAIO VGN-FJ290P1/W notebook containing a Sony VGP-BPS2A Lithium Ion Battery, from [sonystyle.com](http://sonystyle.com), an online storefront of Defendant Sony Electronics Inc., a wholly-owned subsidiary of Sony Corporation of America, Inc., which is a wholly-owned subsidiary of Defendant Sony Corporation. The Lithium Ion Battery and Lithium Ion Battery Product bear Sony Corporation markings. Mr. O’Neil suffered injury as a result of the unlawful conduct alleged herein.

1       24. Plaintiff Alfred T. Giuliano is the Chapter 7 Trustee of Ritz Camera & Image, LLC.  
 2 On January 15, 2013, Ritz Camera's Chapter 11 cases were converted to Chapter 7 cases in  
 3 connection with bankruptcy proceedings in United States Bankruptcy Court for the District of  
 4 Delaware (*In re Ritz Camera & Image, LLC*, D. Del. Bankr. No. 1:12-bk-11868-KG, Dkt. No.  
 5 770). On January 16, 2013, Alfred T. Giuliano was notified of his appointment as Chapter 7  
 6 Trustee (Dkt. No. 772). On June 25, 2013, Chief United States Bankruptcy Judge Kevin Gross  
 7 authorized the Trustee to employ and retain Co-Special Antitrust Counsel to pursue the claims  
 8 herein (Dkt. 982). At all times relevant hereto, Ritz Camera & Image, LLC ("RCI") was a  
 9 Delaware limited liability company with its principal place of business in Beltsville, Maryland. It  
 10 was the successor in interest to Ritz Camera Centers, Inc. ("RCC"). RCI and RCC are collectively  
 11 referred to as "Ritz Camera." During the Class Period, Ritz Camera's relevant purchases include:

- 12       • Sony Lithium Ion Batteries from Defendant Sony Electronics, Inc., a wholly-owned  
  13      subsidiary of Sony Corporation of America, Inc., which is a wholly-owned  
  14      subsidiary of Defendant Sony Corporation, including but not limited to  
  15      NPFM500H, NPF570, and NPF730H;
- 16       • Sony Lithium Ion Batteries from Sony Corporation of America, a wholly-owned  
  17      subsidiary of Defendant Sony Corporation, including but not limited to models:  
  18      NP-FM50, NP-BK1, NP-FC11, and NP-FH70 ;
- 19       • Panasonic Lithium Ion Batteries from Panasonic Consumer Electronics Company,  
  20      a division of Defendant Panasonic Corporation of North America, which in turn is  
  21      a wholly-owned subsidiary of Defendant Panasonic Corporation, including but not  
  22      limited to model CGA-S007A/1B;
- 23       • Sanyo Lithium Ion Batteries from Defendant Sanyo North America Corporation,  
  24      which is a wholly-owned subsidiary of Defendants Sanyo Electric Co. and  
  25      Panasonic Corporation, including but not limited to model DB-L80AU;
- 26       • Sony Lithium Ion Battery Products, including but not limited to DCRTRV460  
  27      Digital 8 camcorders and DSC-V3 and DSC-T1 cameras containing Sony Lithium  
  28      Ion Batteries, from Sony Corporation of America, a wholly-owned subsidiary of  
  29      Defendant Sony Corporation; and
- 30       • Panasonic Lithium Ion Battery Products, including but not limited to PV-DV52 and  
  31      PV-DV701 DV camcorders and DMC-LC40S digital cameras containing  
  32      Panasonic Lithium Ion Batteries, from Panasonic Company and Panasonic  
  33      Company East. Those companies are regional sales companies of Panasonic  
  34      Consumer Electronics Company, which is a division of Defendant Panasonic

1                   Corporation of North America, which in turn is a wholly-owned subsidiary of  
 2                   Defendant Panasonic Corporation.

3                   On information and belief, these Lithium Ion Batteries and Lithium Ion Battery Products bore the  
 4                   markings of the respective Defendants. Ritz Camera suffered injury as a result of the unlawful  
 5                   conduct alleged herein.

6                   25. Plaintiff The Stereo Shop is a sole proprietorship with its principal place of  
 7                   business in Minot, North Dakota. During the Class Period, The Stereo Shop's relevant purchases  
 8                   include a Sony NPF570 Lithium Ion Battery and a Lithium Ion Battery Product, namely a Sony  
 9                   DCRSR47 camcorder, from Defendant Sony Electronics Inc., a wholly-owned subsidiary of Sony  
 10                  Corporation of America, Inc., which is a wholly-owned subsidiary of Defendant Sony  
 11                  Corporation. The Lithium Ion Battery and Lithium Ion Battery Product bear Sony markings. The  
 12                  Stereo Shop suffered injury as a result of the unlawful conduct alleged herein.

13                  26. Plaintiff Univisions-Crimson Holding, Inc. ("UCH") is a New York corporation.  
 14                  During the Class Period, UCH's relevant purchases include:

- 15                  • Panasonic Lithium Ion Batteries from Panasonic Broadcast and Television Systems  
 16                  Company, a unit of Defendant Panasonic Corporation of North America, which is  
 17                  in turn a wholly-owned subsidiary of Defendant Panasonic Corporation, including  
 18                  but not limited to models: CGAD54SE1B and CGPD28A1B; and
- 19                  • Sony Lithium Ion Batteries from Defendant Sony Electronics Inc., a wholly-owned  
 20                  subsidiary of Sony Corporation of America, Inc., which is a wholly-owned  
 21                  subsidiary of Defendant Sony Corporation, including but not limited to models:  
 22                  BPIL75, NPQM91, NPQM71, NPF750, NPF960, NPQM71D, NPF970, BPGL65,  
 23                  BPL60A, NP98, NPF730H, NPFM50, NPFT1, NPF550, and NPQM91.

24                  On information and belief, these Lithium Ion Batteries and Lithium Ion Battery Products bore the  
 25                  markings of the respective Defendants. UCH suffered injury as a result of the unlawful conduct  
 26                  alleged herein.

27                  27. Plaintiff Terri Walner is a resident of Illinois. During the Class Period, Mrs.  
 28                  Walner's relevant purchases include a Sony VAIO VGP-BPL13 Lithium Ion Battery for use in a  
 Sony VAIO notebook computer from Sony Style Direct, a storefront of Defendant Sony  
 Electronics Inc., a wholly-owned subsidiary of Sony Corporation of America, Inc., which is a

1 wholly-owned subsidiary of Defendant Sony Corporation. The Lithium Ion Battery bears Sony  
 2 markings. Mrs. Walner suffered injury as a result of the unlawful conduct alleged herein.

3       28. As alleged in paragraphs 19–27 above, Plaintiffs purchased Lithium Ion Batteries  
 4 and/or Lithium Ion Battery Products from Defendant conspirators or entities owned or controlled  
 5 by Defendant conspirators.

6           **B. Defendants Who Participated in the Conspiracy Owned or Controlled the**  
 7           **Entities that Sold Price-Fixed Lithium Ion Batteries and Lithium Ion Battery**  
 8           **Products to Plaintiffs and the Class**

9       29. Paragraphs 30–58 below identify each of the Defendants and describe the  
 10 relationship of ownership or control between each Defendant conspirator and its divisions,  
 11 subsidiaries, or affiliates that sold Lithium Ion Batteries and/or Lithium Ion Battery Products to  
 12 Plaintiffs and members of the Class. The relationships between the conspirators and sellers are  
 13 characterized by the ability to exercise restraint or direction; to dominate, regulate, or command;  
 14 and/or to have the power or authority to guide or manage.

15           **1. The LG Defendants**

16       30. Defendant LG Chem, Ltd. is a Korean corporation headquartered at 20 Yeouido-  
 17 dong, Yeongdeungpo-gu, Seoul 150-721, South Korea. LG Chem, Ltd. is an affiliate of Seoul-  
 18 based conglomerate LG Electronics, Inc. LG Chem, Ltd. is one of the world's leading  
 19 manufacturers of Lithium Ion Batteries. As explained in detail below, LG Chem, Ltd., including  
 20 through its subsidiaries and affiliates, participated in the conspiracy alleged in this Complaint and  
 21 manufactured, marketed, and/or sold Lithium Ion Batteries that were purchased throughout the  
 22 United States, including in this District, during the Class Period.

23       31. Defendant LG Chem America, Inc. is a Delaware corporation headquartered at 910  
 24 Sylvan Avenue, Englewood Cliffs, New Jersey 07632. LG Chem America, Inc. is a wholly-  
 25 owned subsidiary of LG Chem, Ltd. As explained in detail below, LG Chem America, Inc.,  
 26 including through its subsidiaries and affiliates, participated in the conspiracy alleged in this  
 27 Complaint and manufactured, marketed, and/or sold Lithium Ion Batteries that were purchased  
 28 throughout the United States, including in this District, during the Class Period.

1       32. Defendants LG Chem, Ltd. and LG Chem America, Inc. are collectively referred to  
 2 as "LG."

3                   **2. The Samsung Defendants**

4       33. Defendant Samsung SDI Co., Ltd. is a Korean corporation headquartered at 428-5  
 5 Gongse-dong Giheung-gu, Yongin Kyunggi-do, South Korea. Samsung SDI Co., Ltd. is one of  
 6 the world's largest manufacturers of Lithium Ion Batteries. As explained in detail below,  
 7 Samsung SDI Co., Ltd., including through its subsidiaries and affiliates, participated in the  
 8 conspiracy alleged in this Complaint and manufactured, marketed, and/or sold Lithium Ion  
 9 Batteries that were purchased throughout the United States, including in this District, during the  
 10 Class Period.

11      34. Defendant Samsung SDI America, Inc. is a California corporation with its principal  
 12 place of business at 3333 Michelin Drive, Suite 700, Irvine, California 92612. Samsung SDI  
 13 America, Inc. is more than 90% owned by Samsung SDI Co., Ltd., with the remainder owned by  
 14 another Samsung SDI affiliate. As explained in detail below, Samsung SDI America, Inc.,  
 15 including through its subsidiaries and affiliates, participated in the conspiracy alleged in this  
 16 Complaint and manufactured, marketed, and/or sold Lithium Ion Batteries that were purchased  
 17 throughout the United States, including in this District, during the Class Period.

18      35. Defendants Samsung SDI Co., Ltd. and Samsung SDI America, Inc. are  
 19 collectively referred to as "Samsung."

20      36. LG and Samsung are collectively referred to at times as the "Korean Defendants."

21                   **3. The Panasonic Defendants**

22      37. Defendant Panasonic Corporation, formerly known as Matsushita Electric  
 23 Industrial Co., Ltd. ("MEI"), is a Japanese corporation headquartered at 1006 Oaza Kadoma,  
 24 Kadoma-shi, Osaka 571-8501, Japan. According to Panasonic Corporation's Annual Securities  
 25 Report for the fiscal year ended March 31, 2013 (the 106th Business Term), during the Class  
 26 Period, Matsushita Battery Industrial Co., Ltd. ("MBI") was a wholly-owned subsidiary of MEI.  
 27 MBI manufactured and sold Lithium Ion Batteries and Lithium Ion Battery Products. [REDACTED]

28 [REDACTED]

1 [REDACTED]  
 2 [REDACTED]  
 3 [REDACTED] MEI and MBI are collectively referred to herein as  
 4 "Matsushita."

5       38. Effective October 1, 2008, MEI changed its name to Panasonic Corporation, and  
 6 MBI became an internal divisional company of Panasonic Corporation, operating within  
 7 Panasonic Corporation's Energy Segment. According to Panasonic Corporation's Annual  
 8 Securities Report for the fiscal year ended March 31, 2013 (the 106th Business Term), Panasonic  
 9 Corporation has manufacturing facilities for batteries at its Osaka Plant in Moriguchi-shi, Osaka,  
 10 and its Suminoe Plant at Suminoe-ku, Osaka-shi, Osaka. That report further states, "[f]or  
 11 production, the Company and its subsidiaries and affiliates are responsible as a manufacturer for  
 12 each product." In addition, "[t]he Company has documented its actual status of the internal  
 13 control system, with coordination provided by the Internal Auditing Group, in order to ensure  
 14 reliability in financial reporting of the Panasonic Group including its subsidiaries, ranging from  
 15 the control infrastructure to actual internal control activities. Specifically, the Company has  
 16 reinforced its internal controls by implementing self-checks and self-assessment programs at each  
 17 of the Divisional Companies and business divisions, etc." Panasonic Corporation is one of the  
 18 world's leading manufacturers of Lithium Ion Batteries and Lithium Ion Battery Products. As  
 19 explained in detail below, Panasonic Corporation, including through its subsidiaries and affiliates,  
 20 participated in the conspiracy alleged in this Complaint and manufactured, marketed, and/or sold  
 21 Lithium Ion Batteries that were purchased throughout the United States, including in this District,  
 22 during the Class Period.

23       39. Defendant Panasonic Corporation of North America, formerly known as  
 24 Matsushita Electric Corporation of America, is a Delaware corporation with its principal place of  
 25 business at One Panasonic Way, Secaucus, New Jersey 07094. Panasonic Corporation of North  
 26 America is a wholly-owned subsidiary of Panasonic Corporation. According to Panasonic  
 27 Corporation's Annual Securities Report for the fiscal year ended March 31, 2013 (the 106th  
 28 Business Term), Panasonic Corporation of North America is one of Panasonic Corporation's

1 principal consolidated subsidiaries. Panasonic Corporation has 100% of the voting rights in  
 2 Panasonic Corporation of North America. Panasonic Corporation and Panasonic Corporation of  
 3 North America share an interlocking directorate, meaning that Panasonic Corporation's  
 4 "employees concurrently hold position of directors or officers" in Panasonic Corporation of North  
 5 America. For example, during the Class Period, Yoshihiko Yamada served as an Executive  
 6 Officer of Panasonic, Director of Corporate Management Division for North America, and  
 7 Chairman, Panasonic Corporation of North America. Panasonic Corporation of North America  
 8 entered into agreements with U.S.-based customers calling for the customers to indemnify not  
 9 only Panasonic Corporation of North America, but also "its divisions, parent, subsidiaries and  
 10 affiliates, and their respective officers and directors" for liabilities caused by Lithium Ion Batteries  
 11 cells sold by Panasonic Corporation of North America. Panasonic Industrial Company and  
 12 Panasonic Consumer Electronics Company are divisions of Panasonic Corporation of North  
 13 America. As explained in detail below, Panasonic Corporation of North America, including  
 14 through its subsidiaries and affiliates, participated in the conspiracy alleged in this Complaint and  
 15 manufactured, marketed, and/or sold Lithium Ion Batteries and Lithium Ion Battery Products that  
 16 were purchased throughout the United States, including in this District, during the Class Period.

17       40. Defendants Panasonic Corporation and Panasonic Corporation of North America  
 18 are collectively referred to as "Panasonic."

19                  **4. The Sanyo Defendants**

20       41. Defendant Sanyo Electric Co., Ltd. is a Japanese corporation headquartered at 5-5  
 21 Keihan-Hondori 2-chome, Moriguchi City, Osaka 570-8677, Japan. Sanyo Electric Co., Ltd. is  
 22 one of the largest manufacturers and suppliers of Lithium Ion Batteries in the world. In December  
 23 2009, Panasonic Corporation completed acquisition of a majority of the voting stock of Sanyo  
 24 Electric Co., Ltd.; Sanyo Electric Co., Ltd. and its subsidiaries became consolidated subsidiaries  
 25 of Panasonic Corporation. Sanyo Electric Co., Ltd. became a wholly-owned subsidiary of  
 26 Panasonic Corporation on April 1, 2011. Sanyo Energy (USA) Corporation is a subsidiary of  
 27 Sanyo Electric Co., Ltd. Sanyo Soft Energy Company was a division of the Components and  
 28 Device Business Group of Sanyo Electric Co., Ltd. Sanyo Mobile Energy Company is a division

1 of the Component Group of Sanyo Electric Co., Ltd. Sanyo Electric Co. monitored its  
 2 subsidiaries' business development functions and directed subsidiaries such as Sanyo Energy  
 3 (USA) Corporation to handle certain accounts to the exclusion of other Sanyo subsidiaries. As  
 4 explained in detail below, Sanyo Electric Co., Ltd., including Sanyo GS Soft Energy Co., Ltd.  
 5 ("GS Soft Energy")—its joint venture with Defendant GS Yuasa Corporation—and its other  
 6 subsidiaries and affiliates, participated in the conspiracy alleged in this Complaint and  
 7 manufactured, marketed, and/or sold Lithium Ion Batteries and Lithium Ion Battery Products that  
 8 were purchased throughout the United States, including in this District, during the Class Period.

9       42. Defendant Sanyo North America Corporation is a Delaware corporation with its  
 10 principal place of business at 2055 Sanyo Avenue, San Diego, California 92154. Sanyo North  
 11 America Corporation was a wholly-owned subsidiary of Sanyo Electric Co., Ltd. In December  
 12 2009, Sanyo North America Corporation became an indirect, consolidated subsidiary of Panasonic  
 13 Corporation. On April 1, 2011, Sanyo North America Corporation became an indirect, wholly-  
 14 owned subsidiary of Panasonic Corporation. As explained in detail below, Sanyo North America  
 15 Corporation, including through its subsidiaries and affiliates, participated in the conspiracy alleged  
 16 in this Complaint and manufactured, marketed, and/or sold Lithium Ion Batteries and Lithium Ion  
 17 Battery Products that were purchased throughout the United States, including in this District,  
 18 during the Class Period.

19       43. Defendants Sanyo Electric Co., Ltd. and Sanyo North America Corporation are  
 20 collectively referred to as "Sanyo."

## 21           **5. The Sony Defendants**

22       44. Defendant Sony Corporation is a Japanese corporation headquartered at 1-7-1  
 23 Konan, Minato-Ku, Tokyo 108-0075, Japan. Sony Corporation invented the Lithium Ion Battery  
 24 in 1991 and since then has been one of the world's leading suppliers of Lithium Ion Batteries. At  
 25 various times during the Class Period, Sony Energy Company, Sony's Core Technology &  
 26 Network Company, and Sony's Micro System Network Company were divisional companies and  
 27 business units of Sony Corporation. As explained in detail below, Sony Corporation, including  
 28 through its subsidiaries and affiliates, participated in the conspiracy alleged in this Complaint and

1 manufactured, marketed, and/or sold Lithium Ion Batteries and Lithium Ion Battery Products that  
 2 were purchased throughout the United States, including in this District, during the Class Period.

3       45.     Sony Energy Devices Corporation is a Japanese corporation headquartered at 1-1  
 4 Shimosugishita, Takakura, Hiwada-machi, Koriyama-shi, Fukushima, 963-0531 Japan.   Sony  
 5 Energy Devices Corporation is a wholly-owned subsidiary of Sony Corporation.   In or around  
 6 2009, Sony reorganized its research and development, design, manufacturing, sales, and marketing  
 7 for its energy business, including Lithium Ion Batteries, under Sony Energy Devices Corporation.  
 8 As explained in detail below, Sony Energy Devices Corporation and its predecessors, including  
 9 through its subsidiaries and affiliates, participated in the conspiracy alleged in this Complaint and  
 10 manufactured, marketed, and/or sold Lithium Ion Batteries that were purchased throughout the  
 11 United States, including in this District, during the Class Period.

12       46.     Defendant Sony Electronics, Inc. is a Delaware corporation with its principal place  
 13 of business at 16530 Via Esprillo, MZ 7180, San Diego, California 92127.   Sony Electronics, Inc.  
 14 is a wholly-owned subsidiary of Sony Corporation of America, Inc., which is a wholly-owned  
 15 subsidiary of Defendant Sony Corporation.   As explained in detail below, Sony Electronics, Inc.,  
 16 including through its subsidiaries, affiliates, retail stores, and online storefronts, participated in the  
 17 conspiracy alleged in this Complaint and manufactured, marketed, and/or sold Lithium Ion  
 18 Batteries and Lithium Ion Battery Products that were purchased throughout the United States,  
 19 including in this District, during the Class Period.

20       47.     Defendants Sony Corporation, Sony Energy Devices Corporation, and Sony  
 21 Electronics, Inc. are collectively referred to as “Sony.”

## 22           **6. The Hitachi Maxell Defendants**

23       48.     Defendant Hitachi Maxell, Ltd. is a Japanese company with its principal place of  
 24 business at 2-18-12 Iidabashi, Chiyoda-ku, Tokyo 102-8521, Japan.   Hitachi Maxell, Ltd. became  
 25 a wholly-owned subsidiary of Hitachi, Ltd. in April 2010.   Hitachi, Ltd. sells consumer electronics  
 26 in the United States through its major subsidiary Hitachi America, Ltd., which is headquartered in  
 27 Tarrytown, New York.   According to a Corporate Disclosure Statement filed on October 9, 2013  
 28 in the United States Court of Appeals for the Ninth Circuit, Hitachi America, Ltd. is a wholly-

1 owned subsidiary of Hitachi Ltd. On December 31, 2012, Hitachi Maxell Energy, Inc. merged  
 2 into Hitachi Maxell, Ltd., which became the successor-in-interest to Hitachi Maxell Energy, Inc.  
 3 As explained in detail below, Hitachi Maxell, Ltd., including through its subsidiaries and  
 4 affiliates, participated in the conspiracy alleged in this Complaint and manufactured, marketed,  
 5 and/or sold Lithium Ion Batteries throughout the United States, including in this District, during  
 6 the Class Period.

7       49. Defendant Maxell Corporation of America is a New Jersey corporation with its  
 8 principal place of business at 3 Garrett Mountain Plaza, 3rd Floor, Suite 300, Woodland Park,  
 9 New Jersey 07424. Maxell Corporation of America is a wholly-owned subsidiary of Hitachi  
 10 Maxell, Ltd., and an indirect wholly-owned subsidiary of Hitachi, Ltd. As explained in detail  
 11 below, Maxell Corporation of America, including through its subsidiaries and affiliates,  
 12 participated in the conspiracy alleged in this Complaint and manufactured, marketed, and/or sold  
 13 Lithium Ion Batteries throughout the United States, including in this District, during the Class  
 14 Period.

15       50. Defendants Hitachi Maxell, Ltd. and Maxell Corporation of America are  
 16 collectively referred to as "Hitachi Maxell."

## 17              **7. The GS Yuasa Defendant**

18       51. Defendant GS Yuasa Corporation is a business entity organized under the laws of  
 19 Japan, with its principal place of business at 1, Inobanba-cho, Nishinoshio, Kisshoin, Minami-ku,  
 20 Kyoto 601-8520, Japan. Its businesses include the manufacture and supply of batteries, power  
 21 supply systems, lighting equipment, and other specialty electrical equipment. GS Yuasa  
 22 Corporation was founded in April 2004 as a holding company through the implementation of a  
 23 joint share transfer of two Japanese storage battery manufacturers: Japan Storage Battery Co.,  
 24 Ltd. (GS) and Yuasa Corporation. GS Yuasa Corporation and Sanyo Electric Co., Ltd. were joint  
 25 venture parents of GS Soft Energy, which was the successor-in-interest to GS-Melcotec Co. ("GS-  
 26 Melcotec"). GS Soft Energy was a business entity organized under the laws of Japan, with its  
 27 principal place of business at 5, Ichinodancho, Kisshoinshinden, Minami-Ku Kyoto 601-8397,  
 28 Japan. As explained in detail below, GS Yuasa Corporation, including through its subsidiaries

1 and/or affiliates GS-Melcotec, GS Soft Energy, and others, participated in the conspiracy alleged  
 2 in this Complaint and manufactured, marketed, and/or sold Lithium Ion Batteries throughout the  
 3 United States, including in this District, during the Class Period.

4       52.     Defendant GS Yuasa Corporation is referred to herein as “GS Yuasa.”

5                   **8. The NEC Defendants**

6       53.     Defendant NEC Corporation is a business entity organized under the laws of Japan,  
 7 with its principal place of business at 7-1, Shiba 5-chome Minato-ku, Tokyo 108-8001, Japan. As  
 8 explained in detail below, NEC Corporation, including through its subsidiaries and affiliates,  
 9 participated in the conspiracy alleged in this Complaint and manufactured, marketed, and/or sold  
 10 Lithium Ion Batteries throughout the United States, including in this District, during the Class  
 11 Period.

12      54.     Defendant NEC Tokin Corporation (“NEC Tokin”) is a business entity organized  
 13 under the laws of Japan, with principal places of business at 7-1, Kohriyama 6-chome, Taihaku-  
 14 ku, Sendai-shi, Miyagi 982-8510 and 1-1, Asahicho 7-chome, Shiroshi-shi, Miyagi 989-0223,  
 15 Japan. Until February 1, 2013, NEC Tokin was a wholly-owned subsidiary of NEC Corporation.  
 16 At that time, KEMET Electronics Corporation purchased 51% of the common stock of NEC Tokin  
 17 (which represents only a 34% economic interest) from NEC Corporation. Nonetheless, the 2013  
 18 annual report for KEMET Electronics Corporation’s parent company, KEMET Corporation  
 19 (collectively “KEMET”), acknowledges that KEMET “does not have the power to direct  
 20 significant activities of NEC TOKIN” and that “NEC has significant board rights.” As explained  
 21 in detail below, NEC Tokin participated in the conspiracy alleged in this Complaint and  
 22 manufactured, marketed, and/or sold Lithium Ion Batteries throughout the United States, including  
 23 in this District, during the Class Period.

24      55.     Defendants NEC Corporation and NEC Tokin are collectively referred to as  
 25 “NEC.”

26                   **9. The Toshiba Defendant**

27      56.     Defendant Toshiba Corporation is a business entity organized under the laws of  
 28 Japan, with its principal place of business at 1-1, Shibaura 1-chome, Minato-ku, Tokyo 105-8001,

1 Japan. As explained in detail below, Toshiba Corporation, including through its wholly-owned  
 2 subsidiaries, participated in the conspiracy alleged in this Complaint and manufactured, marketed,  
 3 and/or sold Lithium Ion Batteries throughout the United States, including in this District, during  
 4 the Class Period.

5 57. Defendant Toshiba Corporation is referred to as "Toshiba."

6 58. Panasonic, Sanyo, Sony, Hitachi Maxell, GS Yuasa, NEC, and Toshiba are  
 7 collectively referred to at times as the "Japanese Defendants."

8 59. Paragraphs 30–58 above show the relationship of ownership or control between  
 9 each Defendant conspirator and its divisions, subsidiaries, or affiliates that sold Lithium Ion  
 10 Batteries and/or Lithium Ion Battery Products to Plaintiffs and members of the Class.

#### 11 **IV. AGENTS AND CO-CONSPIRATORS**

12 60. Defendants' officers, directors, agents, employees, or representatives engaged in  
 13 the conduct alleged in this Complaint in the usual management, direction, or control of  
 14 Defendants' business or affairs.

15 61. Defendants are also liable for acts done in furtherance of the alleged conspiracy by  
 16 companies they acquired through mergers and acquisitions.

17 62. When Plaintiffs refer to a corporate family or companies by a single name in this  
 18 Complaint, they are alleging that one or more employees or agents of entities within that corporate  
 19 family engaged in conspiratorial acts on behalf of every company in that family. The individual  
 20 participants in the conspiratorial acts did not always know the corporate affiliation of their  
 21 counterparts, nor did they distinguish between the entities within a corporate family. Customers  
 22 often did not recognize these distinctions either, because Defendants marketed themselves as  
 23 corporate families. [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

28

1 [REDACTED]

2 [REDACTED]

3       63. Certain Asian Defendants and their U.S. affiliates obscured the differences between  
 4 members of their corporate families by using the same domain names for their email addresses.  
 5 For example, employees of LG Chem, Ltd. and LG Chem America, Inc. use the lgchem.com  
 6 domain name for their email addresses. Similarly, Samsung SDI Co., Ltd. employees and  
 7 Samsung SDI America, Inc. employees use the samsung.com domain name for their email  
 8 addresses.

9       64. Personnel often shifted back and forth or “sojourned” between Asian and U.S.  
 10 entities within the same Defendant corporate family, further blurring the distinctions between the  
 11 foreign parents and U.S. subsidiaries. A number of these sojourning employees engaged in  
 12 collusive conduct during the Class Period and then brought their knowledge of the conspiracy with  
 13 them when they moved across borders. Following is a non-exhaustive list of sojourning personnel  
 14 within the Defendant corporate families that engaged in collusive conduct:

15	[REDACTED]	[REDACTED]
16	[REDACTED]	[REDACTED]
17	[REDACTED]	[REDACTED]
18	[REDACTED]	[REDACTED]
19	[REDACTED]	[REDACTED]
20	[REDACTED]	[REDACTED]
21	[REDACTED]	[REDACTED]
22	[REDACTED]	[REDACTED]
23	[REDACTED]	[REDACTED]
24	[REDACTED]	[REDACTED]
25	[REDACTED]	[REDACTED]
26	[REDACTED]	[REDACTED]
27	[REDACTED]	[REDACTED]
28		

1	[REDACTED]	
2	[REDACTED]	
3	[REDACTED]	[REDACTED]
4	[REDACTED]	
5	[REDACTED]	
6	[REDACTED]	
7	[REDACTED]	[REDACTED]
8	[REDACTED]	
9		
10		[REDACTED]
11	[REDACTED]	[REDACTED]
12	[REDACTED]	[REDACTED]
13	[REDACTED]	[REDACTED]
14	[REDACTED]	[REDACTED]
15	[REDACTED]	[REDACTED]
16	[REDACTED]	
17		
18		[REDACTED]
19	[REDACTED]	[REDACTED]
20		[REDACTED]
21	[REDACTED]	[REDACTED]
22	[REDACTED]	[REDACTED]
23	[REDACTED]	[REDACTED]
24		[REDACTED]
25	[REDACTED]	[REDACTED]
26	[REDACTED]	[REDACTED]
27		[REDACTED]
28		

1	[REDACTED]		
2	[REDACTED]	[REDACTED]	[REDACTED]
3	[REDACTED]	[REDACTED]	[REDACTED]
4	[REDACTED]	[REDACTED]	[REDACTED]

65. The individual participants entered into agreements on behalf of their respective  
 7 corporate families. As a result, those agents represented the entire corporate family with respect to  
 8 such conduct, and the corporate family was party to the agreements that those agents reached.

9       66. Each Defendant acted as the agent of, co-conspirator with, or joint venturer of the  
 10 other Defendants and co-conspirators with respect to the acts, violations and common course of  
 11 conduct alleged in this Complaint. Each Defendant or co-conspirator that is a subsidiary of a  
 12 foreign parent acted as the United States agent for Lithium Ion Batteries, Lithium Ion Battery  
 13 Cells, and/or Lithium Ion Battery Products made by its parent company.

14       67. Various persons, partnerships, sole proprietors, firms, corporations, and individuals  
 15 not named as Defendants in this lawsuit, and individuals, both known and unknown, participated  
 16 as co-conspirators with Defendants in the offenses alleged in this Complaint, and performed acts  
 17 and made statements in furtherance of the conspiracy. Plaintiffs reserve the right to name some or  
 18 all of these persons and entities (hereinafter “Co-Conspirators”) as Defendants at a later date.

19 **V. TRADE AND COMMERCE**

20       68. During the Class Period, each Defendant and co-conspirator, or one or more of its  
 21 subsidiaries, affiliates, and/or joint ventures, sold Lithium Ion Batteries and/or Lithium Ion Battery  
 22 Products in the United States in a continuous and uninterrupted flow of interstate commerce and  
 23 foreign commerce, including through and into this judicial District.

24       69. During the Class Period, Defendants collectively imported billions of dollars of  
 25 Lithium Ion Batteries and Lithium Ion Battery Products into the United States. Such conduct  
 26 constitutes United States import trade and/or import commerce.

27       70. In addition, substantial quantities of equipment and supplies necessary to the  
 28 production and distribution of Lithium Ion Batteries and Lithium Ion Battery Products, as well as

1 payments for Lithium Ion Batteries, Lithium Ion Battery Products, and related products sold by  
 2 Defendants and purchased by Plaintiffs and members of the Class, traveled in United States  
 3 domestic interstate commerce, United States import and export commerce, and foreign trade and  
 4 commerce.

5       71. Defendants sold their Lithium Ion Batteries and Lithium Ion Battery Products  
 6 through various direct channels, including to manufacturers, distributors, and retailers of electronic  
 7 products and devices. Some Defendants and their divisions, subsidiaries, and affiliates also sold  
 8 their Lithium Ion Batteries and Lithium Ion Battery Products directly to end users, through brick-  
 9 and-mortar stores in the United States or online through United States-based websites such as  
 10 store.sony.com, shop.panasonic.com, and www.toshibadirect.com. Sales by Defendants in the  
 11 United States to purchasers such as Plaintiffs and members of the Class constitute United States  
 12 domestic commerce, and do not implicate foreign trade.

13       72. California is the worldwide center of the electronics industry and other industries  
 14 that depend on Lithium Ion Batteries and Lithium Ion Battery Products. Statements concerning  
 15 the prices and market conditions for Lithium Ion Batteries and Lithium Ion Battery Products were  
 16 disseminated by Defendants from and into California on a regular and continuous basis.

17       73. Seven of the nine Defendant groups—LG, Panasonic, Sanyo, Sony, Samsung,  
 18 Hitachi Maxell, and Toshiba—maintained sales and marketing arms in the United States to  
 19 conduct business with major customers.<sup>4</sup> These Defendants are incorporated, located, and  
 20 headquartered in the United States, and each does substantial business in domestic interstate  
 21 commerce throughout the United States. For example, Defendant Samsung SDI America, Inc.  
 22 stationed sales and marketing personnel in Los Angeles, Chicago, Austin, and Houston to be  
 23 responsible for Dell, Apple, Lab126, Garmin, Palm, Black & Decker, Hewlett-Packard (“HP”),  
 24 Motorola, and other accounts. Those United States-based personnel reported to Y.A. Oh, who  
 25 served simultaneously as the President of Samsung SDI America, Inc. and as the Vice President

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26  
 27       <sup>4</sup> The remaining Defendant groups also have United States-based subsidiaries that do substantial  
 business in domestic interstate commerce throughout the United States.  
 28

1 for North America of Samsung SDI Co., Ltd. Sanyo similarly stationed sales and engineering  
 2 personnel in Texas to support the HP and Dell accounts, and in Chicago, amongst others, to  
 3 support the Motorola and Black & Decker accounts. Sony also responded to its United States  
 4 customers' demands for lower prices by dispatching business and engineering personnel to its  
 5 offices in the United States. Defendants negotiated sales to major customers such as Dell and HP,  
 6 amongst others, in the United States.

7       74. The activities of Defendants in connection with the production, sale, and/or  
 8 importation of Lithium Ion Batteries and Lithium Ion Battery Products, and the conduct of  
 9 Defendants and their Co-Conspirators as alleged in this Complaint: (a) constituted United States  
 10 domestic interstate trade or commerce; (b) constituted United States import trade or import  
 11 commerce; and/or (c) were within the flow of and had a direct, substantial, and reasonably  
 12 foreseeable effect on United States domestic trade or commerce and/or United States import trade  
 13 or commerce. Given the marketing, importation, and sales by Defendants of Lithium Ion Batteries  
 14 and Lithium Ion Battery Products in the United States, and the volume of affected commerce, as  
 15 alleged in this Complaint, such effects were direct and substantial.

16       75. Defendants' own documents show that the United States is one of the world's  
 17 largest markets for Lithium Ion Batteries and Lithium Ion Battery Products. [REDACTED]  
 18 [REDACTED]

19 [REDACTED] Therefore, it  
 20 is reasonably foreseeable that Defendants' wrongful conduct, as alleged in this Complaint, would  
 21 raise and artificially inflate prices for Lithium Ion Batteries and Lithium Ion Battery Products sold  
 22 in the United States, and would have an effect on United States domestic trade or commerce  
 23 and/or United States import trade or commerce.

24       76. Such effects, including the artificially raised and inflated prices that Plaintiffs and  
 25 members of the proposed Class paid for Lithium Ion Batteries and Lithium Ion Battery Products  
 26 during the Class Period, caused antitrust injury in the United States to Plaintiffs and members of  
 27 the proposed Class, and give rise to their claims under Section 1 of the Sherman Act.  
 28

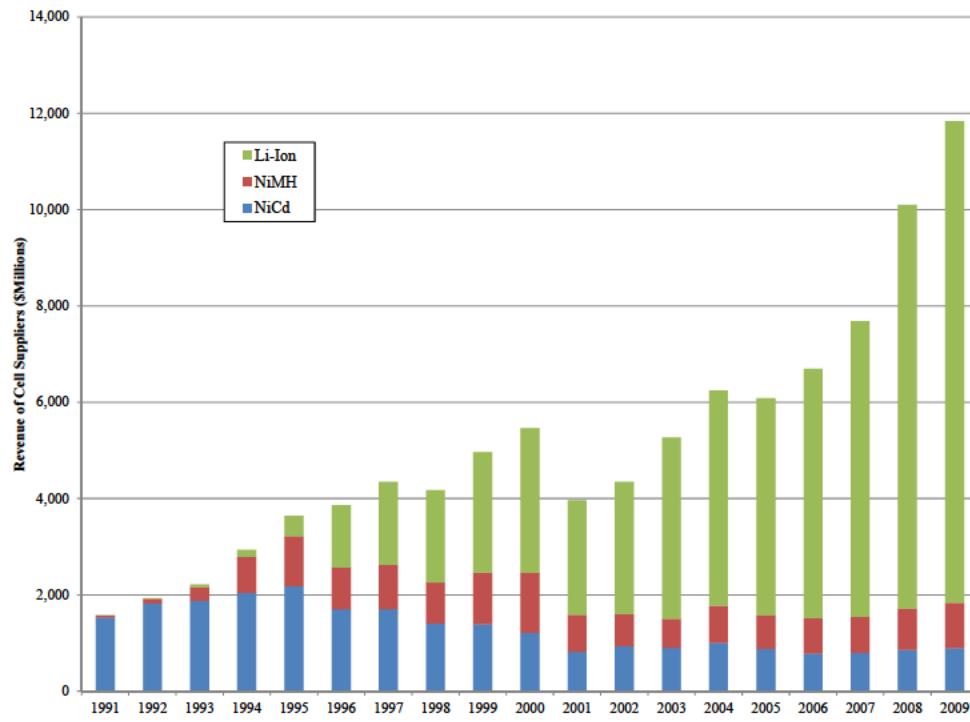
1 **VI. FACTUAL ALLEGATIONS**

2 **A. Rechargeable Batteries**

3 77. There are two general categories of batteries: disposable (primary) batteries, which  
 4 are used until they are fully depleted and then discarded, and rechargeable (secondary) batteries,  
 5 which can be recharged and used for a longer period of time. Rechargeable batteries can be  
 6 categorized into five different types: (1) lead-acid; (2) nickel cadmium (“NiCd”); (3) nickel-metal  
 7 hydride (“NiMH”); (4) nickel-zinc; and (5) lithium ion (“Li-ion”).

8 78. Lead-acid batteries, commonly used in motor vehicles, historically dominated the  
 9 market for rechargeable batteries. Over time, innovations in portable technology—such as laptop  
 10 computers and cellular phones—led to a demand for rechargeable batteries that had a higher  
 11 energy-to-weight/energy-to-volume ratio than lead-acid batteries. Thus, rechargeable battery  
 12 manufacturers began looking to other technologies, such as nickel-based and Lithium Ion  
 13 Batteries.

14 79. Lithium Ion Batteries were first introduced into the market in 1991. By 2000 they  
 15 had become the most popular type of rechargeable batteries, as evidenced in the following graph:



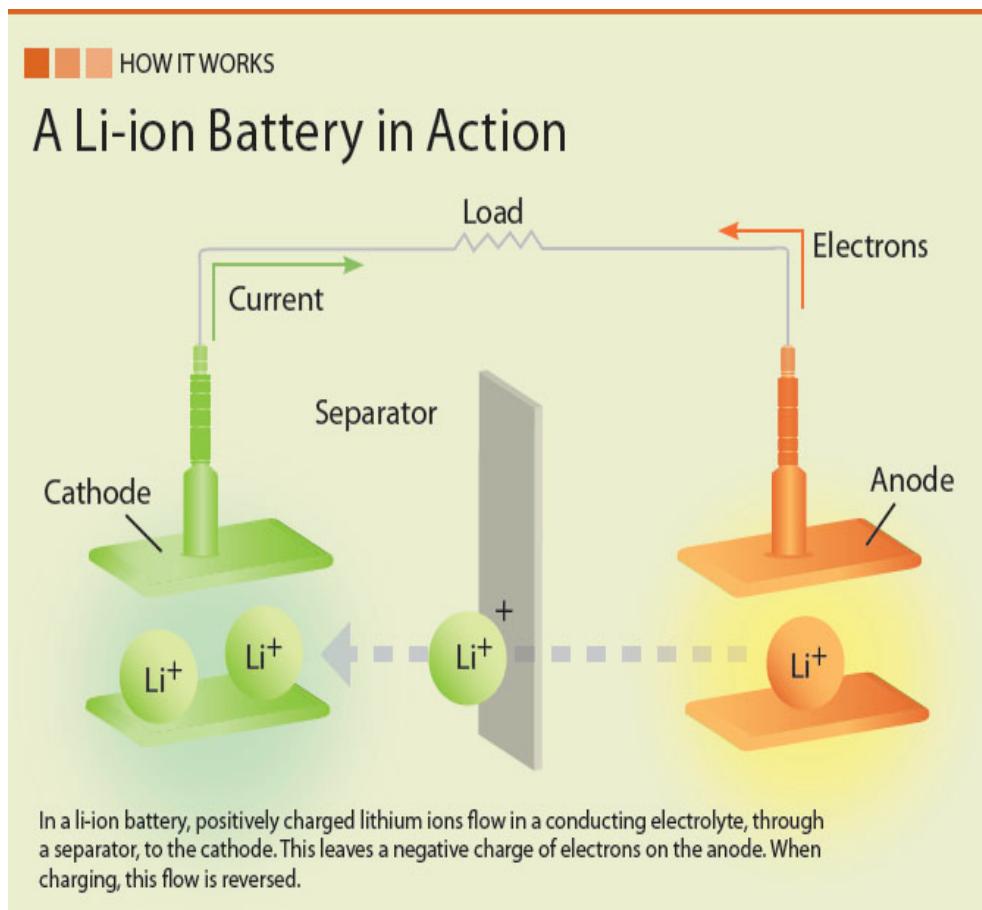
28 Source: *IIT LIB Market Bulletin* (values converted to USD using Bloomberg exchange rates).

1       80.   Lithium Ion Batteries became the preferred power source for most portable  
 2 electronics because of their higher energy density, longer cycle life, and higher operational voltage  
 3 as compared to NiCd and NiMH systems. In 2002, Lithium Ion Batteries represented 63% of the  
 4 value of all rechargeable battery shipments for portable and consumer devices. By 2011, that  
 5 share had grown to 88%.

6       **B.     Lithium Ion Batteries**

7           1.     **Composition and characteristics of Lithium Ion Battery Cells**

8       81.   A Lithium Ion Battery Cell generally contains four primary components: (1) the  
 9 negative electrode (cathode); (2) the positive electrode (anode); (3) the electrolyte; and (4) the  
 10 separator:



26       82.   Rechargeable Lithium Ion Battery Cells work due to the spontaneous release of  
 27 lithium ions from the positive electrode (anode) and acceptance of these ions in the negative  
 28 electrode (cathode). The lithium ions migrate from the anode through the solvent/salt mixture

1 (electrolyte) to the cathode. At the same time, electrons released due to the migration of lithium  
 2 ions from the anode flow through the device that needs the power, and are returned to the cathode.  
 3 This electron flow is how a battery supplies power to a device. When the battery is being  
 4 recharged, the flow and migration pathways are reversed; the lithium ions are driven from the  
 5 cathode through the solvent/salt mixture back to the anode where they reside, and the required  
 6 electrons are driven into the anode through the charging circuitry. The battery is now charged and  
 7 is ready to be used again.

8       83.     The positive electrode is typically composed of a thin porous layer of powdered  
 9 lithium cobalt oxide (or other compounds like lithium iron phosphate) and electronically  
 10 conductive carbon particles bound by a polymeric binder like polyvinylidene fluoride mounted on  
 11 aluminum foil. The negative electrode is typically composed of a thin porous layer of graphite  
 12 powder and other forms of carbon bound by a polymeric binder like polyvinylidene fluoride  
 13 mounted on copper foil. The two electrodes are separated by a porous plastic film soaked  
 14 typically in a mixture of organic solvents and a lithium salt such as lithium hexafluorophosphate.  
 15 Because of the reactive nature of lithiated compounds, these solvents do not contain water and are  
 16 typically comprised of ethylene carbonate or similar chemicals.

17       84.     Initial designs, still in use, include microporous separators where the solvent/salt  
 18 mixture is contained within the pores. Some cells contain one separator, while others contain two  
 19 layers of separators. These separators are then sandwiched between positive and negative  
 20 electrodes and then often spirally wound together in either cylindrical or prismatic forms  
 21 depending on the particular intended end use. More recent designs employ polymer gel  
 22 separators, in which the electrolyte and polymer form an intimate mixture. There is no “free”  
 23 electrolyte in such cells. Flat sheets of anode, separator, and cathode are stacked, laminated, and  
 24 packaged in a pouch.

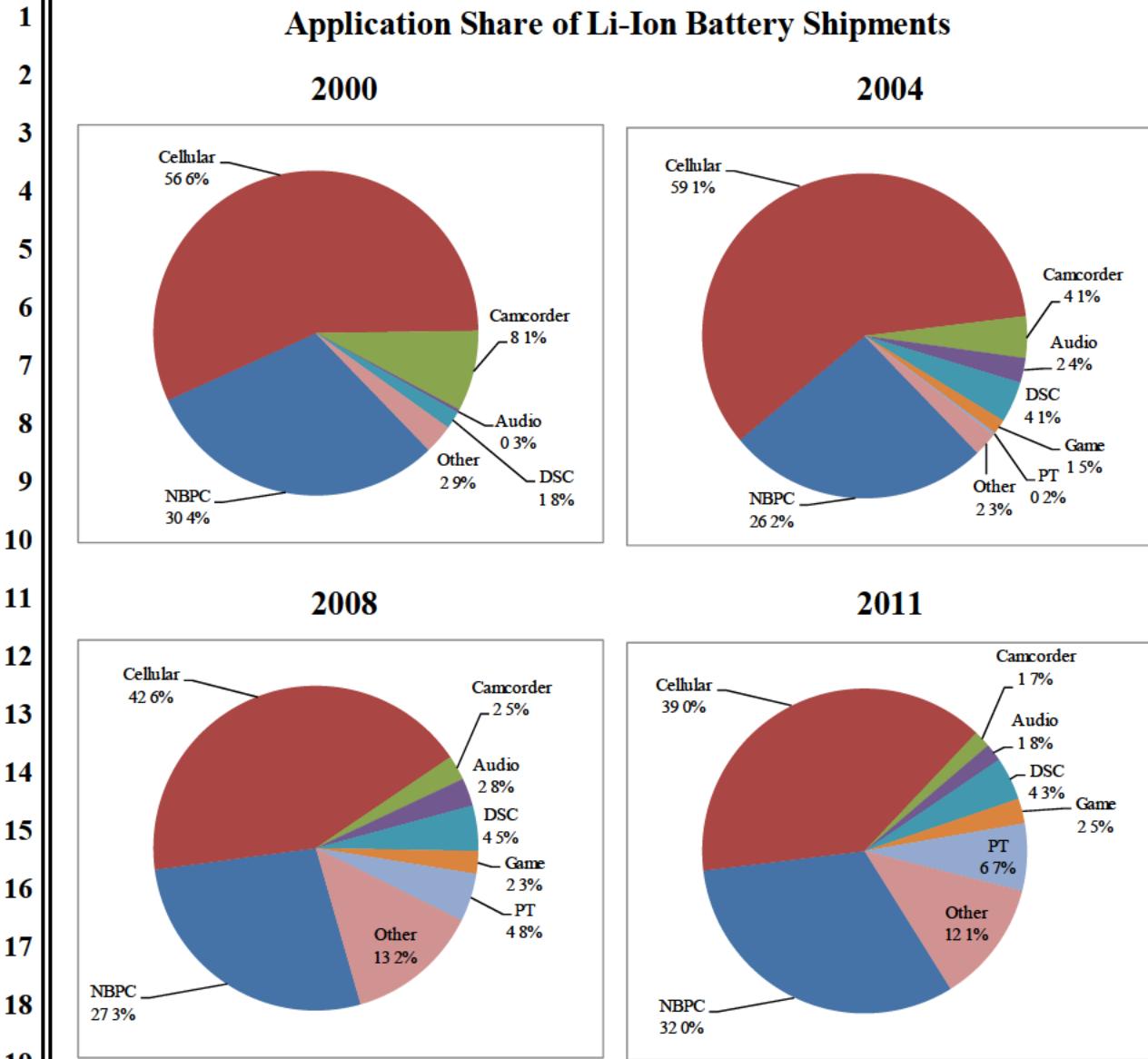
25       85.     Lithium Ion Battery Cells possess certain characteristics that give them advantages  
 26 over other types of rechargeable batteries. Lithium Ion Battery Cells are smaller, lighter, and have  
 27 higher energy density and specific energy than other types of rechargeable batteries. Higher  
 28

1 energy density means that Lithium Ion Battery Cells hold higher amounts of energy per unit  
 2 volume than other types of rechargeable batteries. Higher specific energy means that Lithium Ion  
 3 Battery Cells hold higher amounts of energy per unit weight than other types of rechargeable  
 4 batteries. A smaller and lighter Lithium Ion Battery can generate the same amount of electricity  
 5 as, for example, a larger and heavier nickel-metal hydride battery. A state-of-the-art one-kilogram  
 6 Lithium Ion Battery Cell can store the same amount of energy as a five-kilogram lead-acid battery.

7       86. Unlike other types of rechargeable batteries, Lithium Ion Battery Cells do not  
 8 suffer from any memory effect. “Memory effect” is the phenomenon in which certain batteries  
 9 lose their capacity and voltage when repeatedly charged and discharged to a fraction of their full  
 10 capacity. For example, if a nickel-metal hydride battery is repeatedly charged and discharged to a  
 11 fraction of the capacity several times, then subsequent attempts to fully discharge the battery will  
 12 result in a lower capacity and voltage. In one example the battery was discharged to 75% capacity  
 13 seventeen times. In the eighteenth cycle, the cell was cycled to the fully discharged voltage but  
 14 only 90% of the capacity could be recovered. The memory effect is a disadvantage, even though it  
 15 does not reflect permanent damage of the cell components. Additional full charge-discharge  
 16 cycles result in an increase in battery capacity, *i.e.*, the cell recovers. Lithium Ion Battery Cells do  
 17 not suffer from this memory effect and can be recharged and discharged to a fraction of their  
 18 capacity without permanently losing capacity.

19       87. Another advantage of Lithium Ion Battery Cells is that they have low self-  
 20 discharge rates. This means that they lose minimal amounts of their charge when they are not  
 21 being used. Lithium Ion Battery Cells lose approximately 5% of their charge per month when  
 22 they are idle, compared to 10%–20% per month for nickel cadmium batteries and over 30% per  
 23 month for nickel-metal hydride batteries.

24       88. These and other characteristics of Lithium Ion Battery Cells have made them the  
 25 standard battery of choice in consumer electronic products. As shown below, throughout the  
 26 Class Period the majority, and at times the large majority, of Lithium Ion Batteries were for  
 27 cellular phone and notebook computer applications. Many are also used in digital cameras,  
 28 camcorders, power tools, and other devices:



Source: Institute of Information Technology (IIT) LIB Market Bulletins (for 2000, 2004, and 2008 charts); Avicenne Energy World Rechargeable Battery Report, April 2012 (2011 chart). "NBPC" refers to notebook personal computer. "PT" refers to power tool. "DSC" refers to digital still camera.

## 2. Packing Lithium Ion Batteries

89. To be functional Lithium Ion Battery Cells must be placed into packs intended for insertion and use in the device. The process of placing one or more cells into packages together with the associated circuitry is referred to as packing. The assembly of battery cells into battery packs does not alter the essential character of the cells. Rather, packing allows the cells to operate as a battery to provide power for a Lithium Ion Battery Product. Typically, the cost of materials that go into a cell accounts for 80%–90% of the cost of a pack. In general, the cathode is the most

1 expensive material component, followed by the electrolyte, anode, and separator. A much smaller  
 2 percentage of component cost is dedicated to packaging and the basic circuitry. The packaging  
 3 controls charge and discharge levels, and interconnects multiple cells for powering various  
 4 electronic and other devices. Defendants and their divisions, subsidiaries, or affiliates sell Lithium  
 5 Ion Batteries either as stand-alone products or as components of Lithium Ion Battery Products.

6 [REDACTED] Defendants manufacture and sell Lithium Ion Batteries to their own affiliates (e.g.,  
 7 Sony packs Lithium Ion Batteries for use in Sony VAIO notebook computers). Defendants also  
 8 manufacture and sell Lithium Ion Batteries to one another (e.g., Sony packs Lithium Ion Batteries  
 9 for use in Toshiba Satellite and Tecra notebook computers). Defendants also manufacture and sell  
 10 Lithium Ion Batteries to unaffiliated customers. [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

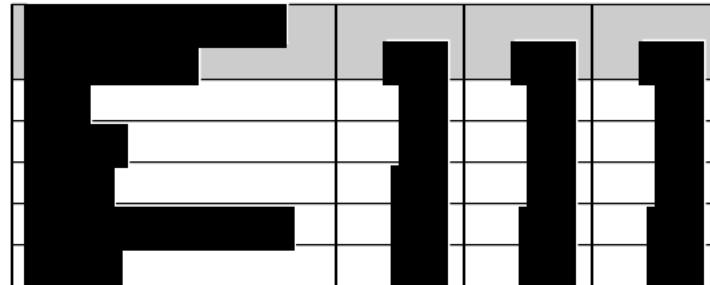
17 92. Defendants sold a substantial volume of Lithium Ion Batteries to the major  
 18 notebook computer manufacturers. [REDACTED]

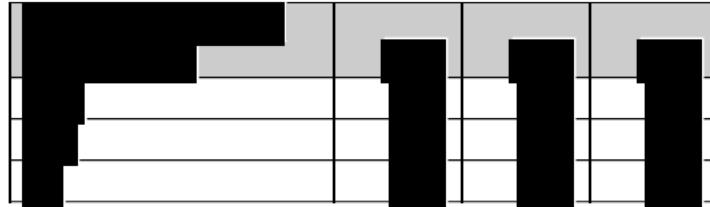
19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 93. The following table identifies the percentage of packs procured by major notebook  
 23 computer manufacturers from Samsung, LG, Sanyo, Panasonic, and Sony for 2008-2010:



1  
2  
3  
45           **3. The packing business and the relationship between Defendants and the**  
6           **battery packers**7       94. Defendants employ several means to pack their cells into Lithium Ion Batteries for  
8       their own sales. [REDACTED]9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]12       95. Other Defendants use other entities as their agents, acting on Defendants' behalf, to  
13       pack and label Lithium Ion Batteries under Defendants' names. [REDACTED]14 [REDACTED]  
15 [REDACTED]16 [REDACTED] Samsung affiliates dominated and controlled [REDACTED] holding four of seven  
17       positions in [REDACTED] General Executive including the Representative Director, President, Vice  
18       President, and Managing Director.19       96. When a Defendant or an entity, acting on the Defendant's behalf, packs Lithium  
20       Ion Batteries for sale by the Defendant, the packs bear markings identifying the Defendant as the  
21       manufacturer. Moreover, when such an entity [REDACTED] is employed for packing, title over  
22       the Lithium Ion Battery Cells typically remains with the Defendant.23       97. Besides manufacturing, packing, and selling their own batteries, Defendants also  
24       provide some of their Lithium Ion Battery Cells to third-party "packers" for assembly into Lithium  
25       Ion Batteries. These transactions tend to involve a transfer of title over the Lithium Ion Battery  
26       Cells to the third-party packers. Three packers based in Taiwan are Simplotech, Inc.,  
27       Celxpert Energy Corporation, and Dynapack International Technology Corporation. These and  
28       other packers do not manufacture their own battery cells. They source their battery cells from

1 Defendants and in certain circumstances, require Defendants' authorization to pack Lithium Ion  
 2 Batteries for Defendants. As a result, packers are dependent upon Defendants for their business  
 3 and must maintain a close relationship with Defendants to keep the supply chain intact.

4 98. [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED] As a result, Defendants maintained a substantial business  
 13 selling packed Lithium Ion Batteries in addition to Lithium Ion Battery Cells. Those Lithium Ion  
 14 Battery sales by Defendants are within the commerce that is the subject of this Complaint.

15       **4. Nature of the claims asserted as it pertains to particular types of**  
 16       **Lithium Ion Batteries and Lithium Ion Battery Products**

17       99. As alleged above, cells are the core part of the battery pack and have no practical  
 18 use on their own. There is no meaningful practical or economic distinction between cells and  
 19 batteries in terms of how the price fix occurred. Defendants, and their Co-Conspirators, as herein  
 20 alleged, fixed the price of Lithium Ion Battery Cells that went into Lithium Ion Batteries and  
 21 Lithium Ion Battery Products purchased by the Plaintiffs and the Class. The claims in this  
 22 Complaint include Lithium Ion Battery Cells which were packed by Defendants and their Co-  
 23 Conspirators, Lithium Ion Battery Cells that were packed by companies for Defendants and their  
 24 Co-Conspirators where title to said cells did not transfer, and Lithium Ion Battery Cells that were  
 25 packed by companies owned or controlled by Defendants and their Co-Conspirators, as well as the  
 26 Lithium Ion Battery Products which contain said Lithium Ion Batteries.

1           **5.       Lithium Ion Battery Cells and Lithium Ion Batteries are traceable  
2           throughout the chain of distribution**

3           100. A Lithium Ion Battery is sold as a stand-alone product, or as a substantial part of a  
4           Lithium Ion Battery Product. When a Lithium Ion Battery is sold as a stand-alone product, the  
5           Lithium Ion Battery and the Lithium Ion Battery Cell contained therein are directly traceable to  
6           the specific manufacturer. When a Lithium Ion Battery is sold as part of a Lithium Ion Battery  
7           Product, it is a distinct, physically discrete element of the finished product and is identifiable by a  
8           specific, discrete part or model number that permits tracing. Lithium Ion Battery Cells and  
9           Lithium Ion Batteries are traceable and identifiable throughout the chain of distribution, among  
10          other reasons, to ensure consumer safety in the event of product recalls by the U.S. Consumer  
11          Product Safety Commission or other agencies.

12          101. Global independent standards organizations have developed several standards for  
13          electrical and safety testing intended to address a range of possible risks connected with Lithium  
14          Ion Battery Cells and Lithium Ion Batteries. For example, Underwriters Laboratories Inc., a  
15          global independent safety science company, has issued UL 1642, the UL Standard for Safety for  
16          Lithium Secondary Cells, and UL 2054, the UL Standard for Safety for Household and  
17          Commercial Batteries. UL 1642 and UL 2054 are intended to reduce the risk of fire or explosion  
18          when Lithium Ion Battery Cells and primary or secondary batteries, including Lithium Ion  
19          Batteries, are used in a product. UL 1642 and UL 2054 set forth construction, performance,  
20          testing, and marking standards. Marking standards that have been in place throughout the Class  
21          Period require each Lithium Ion Battery Cell and Lithium Ion Battery to be marked with the  
22          manufacturer's name, trade name, or trademark and model designation. Defendants' Lithium Ion  
23          Battery Cells and Lithium Ion Batteries are UL certified and are therefore identifiable throughout  
24          the chain of distribution from factory to end purchaser.

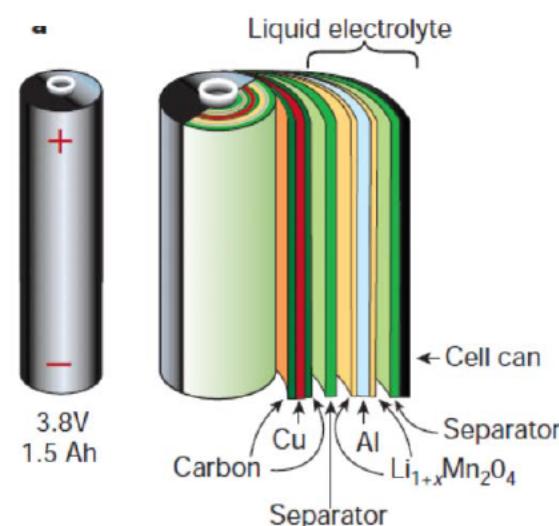
25          102. Cell and pack manufacturers can be identified in several other ways. Barcodes or  
26          model number markings on the Lithium Ion Battery Cell contain information identifying the cell  
27          manufacturer. Barcodes or quick response (QR) codes on Lithium Ion Batteries contain  
28          information identifying the manufacturer of the Lithium Ion Battery Cell and other components of

1 the pack. Integrated circuits in certain Lithium Ion Batteries, such as those used in notebook  
 2 computers, contain information identifying the manufacturer and model number of the Lithium  
 3 Ion Battery Cells in those packs. The information on these integrated circuits can be accessed  
 4 through industry software.

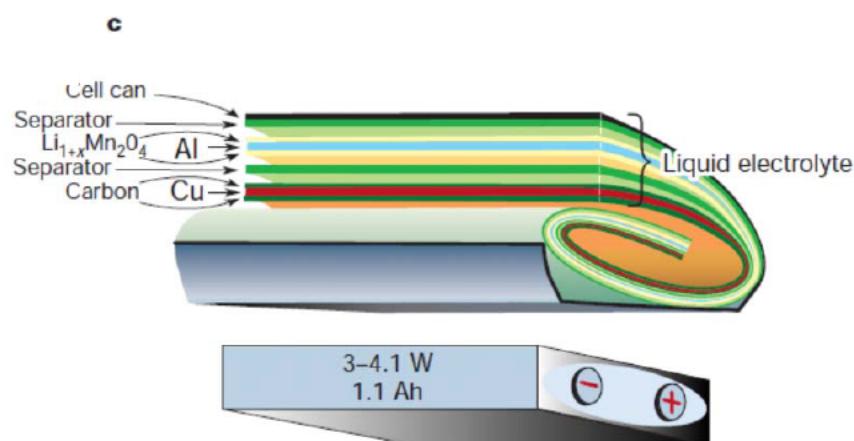
5 **6. Lithium Ion Batteries are commodity products**

6 103. Three formats—cylindrical, prismatic, and polymer—comprise the market at the  
 7 heart of the conspiracy alleged in this case:

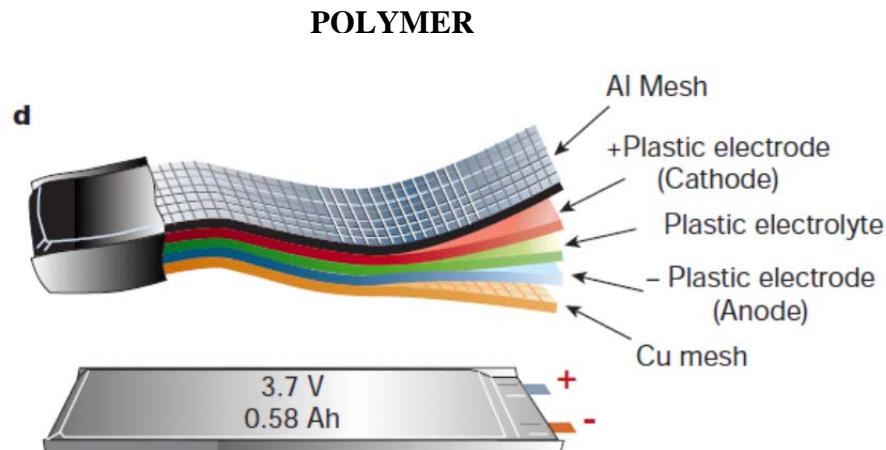
8 **CYLINDRICAL**



19 **PRISMATIC**



1



104. The basic composition and manufacturing for each of these formats largely  
11 overlaps. [REDACTED]

12 [REDACTED]  
13 [REDACTED] Sony's Battery Technology Planning Team Leader has explained  
14 that the chemistry of polymer batteries and prismatic batteries is the same. As a result, the  
15 Lithium Ion Battery business is a single overall market, rather than separate markets for each type  
16 of battery format.

17 105. Lithium Ion Batteries generally are not interchangeable among other types of  
18 rechargeable batteries, such as nickel cadmium, nickel-metal hydride, and nickel-zinc. These  
19 other types of rechargeable batteries have different charge-discharge characteristics than Lithium  
20 Ion Batteries. Unless an electronic device's charger is pre-configured by the manufacturer to  
21 accept different types of rechargeable batteries, these other batteries will not work properly with  
22 the device. The technology used to make Lithium Ion Batteries is standard across manufacturers,  
23 however, meaning that Lithium Ion Batteries are fungible within the various formats discussed  
24 above.

25 106. Lithium Ion Batteries are highly standardized products, and interchangeable among  
26 products of the same type and across manufacturers. These factors make Lithium Ion Batteries  
27 susceptible to commoditization—a process whereby a good that once possessed distinct attributes  
28

1 ends up being an indistinguishable commodity. Commodities are wholly or partially fungible,  
 2 and since they are viewed by the market as equivalent without regard to who produced them,  
 3 customers tend to purchase them on the basis of price alone. Once a good is wholly  
 4 commoditized, producers can increase their market share only by cutting prices, thus leading to  
 5 lower sales prices to customers. This is precisely the situation Defendants wanted to avoid, and  
 6 explains why they colluded to restrain supply and stabilize Lithium Ion Battery prices.

7           **C. Defendants Colluded to Keep the Price of Lithium Ion Batteries Elevated**  
 8           **During the Class Period**

9           107. As alleged in this Complaint, Defendants engaged in a conspiracy to fix, raise,  
 10 stabilize, and maintain the price of Lithium Ion Batteries throughout the Class Period.  
 11 Defendants' acts, practices, and course of conduct in furtherance of their conspiracy evolved over  
 12 time and included, but were not limited to the following: coordinating prices for specific  
 13 customers and products; engaging in continuous communications on confidential and proprietary  
 14 business matters to eliminate price competition; allocating market shares; restricting supply of  
 15 Lithium Ion Batteries; using input costs as a pretext for industry-wide pricing formulas; and  
 16 concocting mechanisms to nullify competitive sales processes to their customers. Examples of  
 17 Defendants' conduct are described in detail below.

18           **1. The Korean Defendants' entry into the market undermined Japanese**  
 19           **dominance and threatened to cause prices to drop**

20           108. In 1991, Sony released the first commercial Lithium Ion Battery. Between 1991  
 21 and 1999, Sony and its fellow Japanese suppliers dominated the market for Lithium Ion Batteries,  
 22 with 95% of the world's secondary batteries coming from Japan by 2000. Prices for Lithium Ion  
 23 Batteries remained stable during this period.

24           109. Around 1999, Korean manufacturers entered the Lithium Ion Battery market,  
 25 posing the first competitive threat to the Japanese suppliers. LG became the first Korean  
 26 manufacturer of Lithium Ion Batteries in 1999, and Samsung followed in 2000.

27           110. To stem the decline in Lithium Ion Battery prices caused by the competition  
 28 between the Japanese and Korean producers, the Japanese Defendants conspired with the Korean

1 Defendants to fix, raise, stabilize, and maintain prices. As alleged in detail below, Defendants  
 2 took various acts in furtherance of this conspiracy over the course of at least 110 illicit meetings  
 3 and communications that began in 2000, evolved over time, and lasted until May 2011.

4       111. Participating in many of these meetings and communications were top-level  
 5 management for Defendants including, among others:

- 6           a. For LG—Soon Yong Hong (Executive Vice President), Myung Hwan Kim  
                  (Director, Battery Division), and Joon Hoo Lee (Vice President, LG  
                  Notebook Division);
- 7           b. For Samsung—Jin Geon Lee (Executive Vice President and Sales Team  
                  Leader), Oong Kyun Kim (General Manager), Jong Seon Park (Senior  
                  Manager), and Hee Kyu Yeo (Group Leader and Senior Manager);
- 8           c. For Panasonic—Toru Ishida (President) and Masatsugu Kondo (Director,  
                  Small Battery Division);
- 9           d. For Sanyo—Toshimasa Iue (President and COO) and Mr. Ikegami (General  
                  Manager);
- 10          e. For Sony—Mr. Gazi (CEO, Sony Energy Company) and Yutaka Nakagawa  
                  (Deputy President, Sony Micro Systems Network Company and President,  
                  Sony Energy Company);
- 11          f. For Hitachi Maxell—Kakbon Kakumoto (Vice Director of Battery Sales  
                  Headquarter and Business Strategy General Manager) and Taekjeong Sawai  
                  (Proxy General Manager of Business Strategy Division);
- 12          g. For GS Soft Energy—Mr. Honma (President), its Vice President and its  
                  General Manager;
- 13          h. For NEC—its Executive Vice President and its General Manager (Planning  
                  Division), Motohiro Mochizuki (NEC Tokin's Head of Business Planning  
                  Department); and
- 14          i. For Toshiba—Hirayama Kazunari (General Manager of Business) and  
                  Ozaki Hidemichi (General Manager of Planning).

15           **2. Defendants engaged in collusive communications regarding supply,  
 16           customer information, and market movements**

17       112. Beginning no later than in 2000, when it became apparent that the Korean  
 18 manufacturers would continue to grow their share of the Lithium Ion Battery market, the Japanese  
 19

1 Defendants abandoned any initial hostility to the Korean manufacturers and, instead, began  
 2 sharing with them confidential and competitively sensitive information regarding supply and  
 3 demand, market trends, capacity, sales forecasts, and pricing for Lithium Ion Batteries.

4       113. Defendants were able to and did use the confidential, proprietary, and forward-  
 5 looking information obtained from other Lithium Ion Battery suppliers to set prices to their own  
 6 customers. This type of information would not normally be exchanged absent collusion, and  
 7 shows that Defendants were more interested in cooperating with each other, rather than competing  
 8 against each other.

9       114. At first, these collusive meetings took place during semi-annual visits by  
 10 representatives of the Korean Defendants to the offices of the Japanese Defendants. During the  
 11 Class Period, these semi-annual meetings usually occurred in late February/early March and again  
 12 in late July/early August. These semi-annual meetings were frequently supplemented with other  
 13 gatherings which tended to occur in “off” months such as October or November.

14       115. At the semi-annual meetings, Defendants explicitly sought mutual cooperation and  
 15 shared commercially sensitive, non-public information pertaining to their respective battery  
 16 businesses. Topics of discussion at these meetings included supply and demand outlook; sales  
 17 performance and outlook; expansion plans and capacity; cellular phone and notebook computer  
 18 market information (the two largest markets for Lithium Ion Batteries); the possibility of moving  
 19 production to China; expanding to other product markets; updates on competitors; and the impact  
 20 of raw material prices on the manufacturers’ cost structure. One recurring theme among the  
 21 discussions was that Defendants should agree never to fully meet market demand, thereby  
 22 ensuring a perennial supply shortage and generating higher prices.

23       116. In addition to their on-site visits, Defendants engaged in other meetings typically at  
 24 cafes, restaurants, and other out-of-the-way locations.

25       117. Although Defendants were careful during their meetings not to have more than two  
 26 companies meeting together at any one time (in order to better conceal their conspiratorial  
 27 behavior), all Defendants participated in such meetings during the Class Period.

1           **3. Defendants engaged in collusive bilateral meetings between 1999 and**  
2           **2001**

3           [REDACTED]  
4           [REDACTED]  
5           [REDACTED]  
6           [REDACTED]  
7           [REDACTED]  
8           [REDACTED]  
9           [REDACTED]  
10          [REDACTED]  
11          [REDACTED]  
12          [REDACTED]  
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26 [REDACTED]  
27 [REDACTED]  
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1           **4. Defendants continued their regular bilateral meetings in 2002 and 2003**

2       127. From March 12–16, 2002, representatives from Samsung’s business and marketing  
 3 teams discussed—in separate meetings with Sony, Sanyo, Hitachi Maxell, GS-Melcotec, and MBI  
 4 (Panasonic)—current and forecasted supply and demand for cylindrical, polymer, and prismatic  
 5 Lithium Ion Batteries; production capacity; possible entry into China; the notebook computer  
 6 battery market; and problems caused by excess product supply. As a result of these meetings,  
 7 Samsung, Sony, and Sanyo (and likely other Defendants) agreed to refrain from extending their  
 8 existing capacity in order to keep supply tight.

9       128. In July 2002, LG Executive Vice President Hong met with “Division Leaders”  
 10 from Toshiba, MBI (Panasonic), Sony, and Sanyo to secure cooperation from these Defendants in  
 11 the Lithium Ion Battery market.

12       129. The Samsung team returned to Japan during the period October 22–25, 2002, at  
 13 which time the team met with Sanyo, Toshiba, GS-Melcotec, GS Soft Energy, and MBI  
 14 (Panasonic) to discuss substantially the same subjects that were raised in the March 2002 meeting.  
 15 Responding to collective fears among Defendants that excess supply would give rise to a drop in  
 16 price, the Vice President and General Manager of GS Soft Energy encouraged the companies to  
 17 meet only 80% of market demand. In fact, there was explicit recognition that “With price  
 18 competition only, all will be in trouble → have to make the industry Healthy.” GS Soft Energy  
 19 and Samsung further discussed a “strategy to get rid of a company which disturbs the market.”

20       130. [REDACTED]  
 21 [REDACTED]  
 22 [REDACTED]  
 23 [REDACTED]

24       131. On November 21, 2002, management representatives from Sony and LG met at  
 25 Sony’s offices in Japan for the purpose of “maintaining future cooperating relations.” Personnel  
 26 from Sony Corporation’s Core Technology & Network Company included Senior General  
 27 Manager Yasuhiro Hosozawa, General Managers Toshiaki Naito and Masaru Hiratsuka, Manager  
 28 Isao Watanabe, Director Kiyoshi Katayama, and Senior Manager Ryoichi Yamane. LG was

1 represented by Seok Hwan Kwak, LG's Cell Business Division leader. At this meeting, Sony  
 2 proposed that the two companies allocate the business according to battery size, because "if the  
 3 two companies engage in price competition on the size, it would cause a loss to both. . ." LG  
 4 promised that if Sony led an increase in polymer battery prices that was reasonable, LG would  
 5 follow Sony's lead.

6       132. The pattern of semi-annual collusive meetings between Korean and Japanese  
 7 producers of Lithium Ion Batteries continued in June/July and October 2003. For instance,  
 8 Samsung representatives met with President Honma of GS Soft Energy on June 26, 2003, at which  
 9 time they discussed second quarter sales forecasts for cylindrical, prismatic, and polymer Lithium  
 10 Ion Batteries. On July 16, 2003, Samsung and Toshiba met at the Tokyo ANA Hotel to discuss  
 11 capacity and operating rate information. On October 2, 2003, Samsung representatives met with  
 12 GS Soft Energy's General Manager of Marketing at Tokyo's Shinjuku Restaurant. Discussion  
 13 topics included the 2004 demand forecast for prismatic and polymer Lithium Ion Batteries, price  
 14 forecasts, raw material supplies, and each Defendant's sales trends.

15           **5. As the conspiracy evolved, Defendants fixed prices for specific  
 16 products, refused to compete on price, and restricted Lithium Ion  
 17 Battery supply**

18       133. The year 2004 represented a significant escalation in the intensity of the collusive  
 19 conduct, with Defendants increasing their cooperation to set prices, avoid price reductions, and  
 20 tighten supply.

21       134. Of critical import were the meetings held between LG and Sony on March 2–3,  
 22 2004. According to an LG document entitled "President Minutes on Business Trip to Japan," the  
 23 purposes of the meeting were introducing "LG Chem's new management/President of Energy  
 24 Company at Sony, and the new division leader to each other, sharing information, and asking for  
 25 cooperation among companies." Participating in this meeting were Yutaka Nakagawa, President  
 26 of Sony Energy Company, LG Executive Vice President Hong, and Myung Hwan Kim, Director  
 27 of LG's Battery Division.

28

1       135. The same “President Minutes” document relates, in meticulous detail, both an  
 2 agreement between LG and Sony to fix the price of Lithium Ion Batteries, and the agreement of  
 3 the other Defendants to do so as well:

4             Sony plans to raise customer prices as said in Press release on Feb.  
 5       24. . . . Sanyo also announced price hikes to customers and MBI also  
 6       plans to do so. Afterwards, we received the opinions of NEC/Hitachi  
 7       Maxell that they would raise prices as well. . . . We believe that if LG  
 8       Chem and [Samsung] cooperated in these moves, the growth of the  
 9       Li-Ion battery industry is likely to go in the right direction.

10      Later in the President Minutes, under the heading “LG Chem’s Response,” LG documented that  
 11     “[w]e [LG] shared the opinion of Sony and mentioned that we would cooperate on [the price  
 12     increase].” LG also made reference to a “prior meeting with our competitor SONY,” conducted  
 13     by LG Executive Vice President Hong, “with the aim of achieving cooperation among companies  
 14     in order for the growth of the healthy Li-Ion industry.”

15      136. On June 30, 2004, Samsung representatives met with key Sony executives at the  
 16     headquarters of Sony Energy Company. The Samsung and Sony representatives discussed price  
 17     fluctuation in the notebook PC market, and expressed fear that the price of Lithium Ion Batteries  
 18     could fall due to excessive inventory. Sony executives committed to avoiding any price cuts.

19      137. This June 30, 2004 meeting also provided a glimpse into how Defendants viewed  
 20     each other, *i.e.*, as collaborators rather than competitors. The President of Sony, in his opening  
 21     remarks to the Samsung contingent, stated that Sony was “[v]ery close friends with Samsung . . .  
 22     [h]as visited Samsung several times to discuss cooperation in memory stick.” Further, he was  
 23     “[g]lad that [Samsung] and Sony have been competitors, but also [have] been able to cooperate  
 24     with each other at the same times as entities participating in the same business,” and he  
 25     “[w]ish[ed] such a relationship would continue.”

26      138. On August 9, 2004, Sony and LG met at Sony’s office, where LG “proposed price  
 27     cooperation to defense prices and to protect the industry, so mentioned that [LG] is also willing to  
 28     cooperate through active participation.”

1       139. Samsung, Sanyo, Sony, MBI (Panasonic), GS Soft Energy, NEC, and Hitachi  
 2 Maxell held another round of meetings on February 21–25, 2005 in Tokyo. Worried about being  
 3 caught between rising raw material costs and softening battery prices, Defendants agreed that they  
 4 should refrain from adding new production lines to reduce supply and thus stabilize prices. For  
 5 example, Sanyo, which planned to have four new lines for its cylindrical batteries in operation by  
 6 the end of 2005, decided instead to add only one. Defendants conveyed a similar message at that  
 7 year's second round of meetings, held on July 19–22, 2005. During a July 22, 2005 meeting with  
 8 Samsung, for example, Hitachi Maxell described a 50% oversupply of prismatic batteries and  
 9 stated that there was a “[g]ap between the facility CAPA [capacity] and demand, so when  
 10 considering the actual production CAPA, the rate of oversupply can decrease a bit.”

11       140. Representatives from LG also met with Samsung over lunch in February 2005 to  
 12 discuss their sales forecasts for various types of Lithium Ion Batteries. They agreed to cooperate  
 13 in setting the sale price of their Lithium Ion Batteries as much as possible going forward. At a  
 14 meeting the following month at a coffee shop in Seoul, Defendants again discussed sales volume,  
 15 capacity, and utilization rates.

16       [REDACTED]  
 17 [REDACTED]  
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 28 [REDACTED]

1       143. On October 26, 2005, representatives of Panasonic and Samsung agreed to avoid  
 2 lowering the prices of certain Lithium Ion Batteries, as described in the notes of the meeting:

3                     2.0Ah Ni—Mn [type of cylindrical Lithium Ion Battery] is seen to be  
 4 Low-cost, but there is no reason to lower the price at the similar level as  
 current Li-Co.

5                     Actually, cost is becoming a little less expensive, but Ni—Mn 2.0Ah's  
 6 performance is better than Co. Thus no reason to lower the price.

7       144. The year concluded with meetings between Samsung, Sony, and Sanyo on  
 8 November 14–16, 2005 in Tokyo. Samsung's notes of this meeting again convey the collusive  
 9 nature of Defendants' business relationship: "[t]rust is solidified through continuous information  
 10 exchange meetings with Sanyo." This demonstrates the level of information exchange in the  
 11 conspiracy throughout the Class Period, beginning in 2000, as detailed above.

12      145. Defendants' top management continued to play an active role in facilitating the  
 13 conspiracy. For example, a Business Trip Report reveals that LG executives met with high-level  
 14 counterparts from Sanyo and Panasonic on September 26, 2005:

15                     [t]he objectives of these meetings were to create direct contact points  
 16 between the top management of LG Chem and Japan's major battery  
 17 companies. Sanyo and [Panasonic]/share information/create a  
 18 partnership opportunity for the sound expansion of the market, as well as  
 to establish cooperative relationship between the Battery Association of  
 19 Japan . . . and the Battery R&D Association of Korea[.] . . . [Finally]  
 20 [t]he companies (especially Sanyo) showed their strong willingness to  
 cooperate with LG Chem in areas where cooperation is possible. The  
 meetings have created direct contact channels between top managements  
 of the companies.

21  
 22      146. The foregoing meeting topics also included pricing. When Sanyo stated that it  
 23 would not agree to a customer's request for a 20% price reduction, LG responded as follows: "If  
 24 Sanyo does not lower prices, LG will not down its prices either."

25      147. At meetings between LG and Sony on February 20 and 26, 2006 at Sony's Tokyo  
 26 offices, a Sony executive, eager to institutionalize the exchange of information between the  
 27 companies, stated that Sony "hoped that both [Sony and LG] discuss cooperation ways [sic] like  
 28 information exchanges through regular meetings in the future." The parties discussed holding a

1 Division Leader-level meeting between the companies before moving onto a President-level  
 2 meeting.

3       148. At a lunch meeting with a representative from LG in May 2006, a Samsung  
 4 representative discussed supply, demand, and pricing information for a number of Samsung's  
 5 customers. Similar meetings, consistent with the semi-annual meetings institutionalized among  
 6 Defendants, took place between Samsung and GS Yuasa on August 8, 2006 and March 15, 2007,  
 7 and between Samsung and MBI (Panasonic) on August 9, 2006.

8                   **6. A rise in the price of raw materials in early 2007 gave Defendants  
 9 further cover to initiate another coordinated price increase**

10       149. In February 2007, the price of cobalt, a key commodity input for Lithium Ion  
 11 Batteries, rose sharply. Defendants, concerned about being squeezed between rising  
 12 manufacturing costs and falling battery prices, decided to act. Using the rise in raw material cost  
 13 as a pretext, Defendants, through a series of clandestine meetings, phone calls, and coded emails,  
 14 orchestrated a uniform price increase for Lithium Ion Batteries.

15       150. On February 24, 2007, high-level executives from Samsung and Panasonic met in a  
 16 private room in a restaurant in Seoul, South Korea. The attendees discussed the rise in the price of  
 17 cobalt and agreed on a formula for collectively raising their prices for Lithium Ion Batteries. The  
 18 pricing formula was then conveyed to the other Defendants. Samsung spoke to LG over the phone  
 19 about the proposed price increase, while Panasonic conveyed it to the other Japanese Defendants.  
 20 Samsung and Panasonic further negotiated the price increase via phone calls and email.

21       151. Just a few days later, on February 27, 2007, high-level executives from LG and  
 22 Sanyo, including LG Vice President Lee and Sanyo General Manager Mr. Ikegami, met at  
 23 Akasaka Restaurant to discuss the timing of the price increase, and arranged for a continuous  
 24 channel of communication with each other.

25       152. To ensure that their price-fixing plan would not be revealed, Defendants used secret  
 26 codes in their emails: in arranging calls, they would state that the purpose of the call was to  
 27 discuss "safety," when in reality it was price-fixing. They also insisted that those with access to  
 28 this information keep it confidential.

153. In an email dated March 19, 2007, a Samsung manager wrote to his counterparts at Panasonic, “[w]e want to talk about your safety technology on HRL and PSS [types of batteries]. So please call Mr. Yeo. His Cell phone number is XX-XX-XXXX-XXXX.” Mr. Yeo’s position at Samsung, however, had nothing to do with safety—it was to set battery prices.

154. The next day, Samsung executive H.K. Yeo sent an internal email, dated March 20, which laid out the contours of the price-fixing plan he had worked out with Panasonic:

1. Request for price increase starting this week
2. Increase (Proposal) Increase: Start 10~13% and hope to end with 8~10% . (Bottom).
- [. . .]
3. Hope to apply to all models
- [. . .]
4. Time to apply the increase: starting 4/1
5. Other company trend
  - Sanyo: hopes for 8~10%
  - Sony: about 10% (will end with less than 10% since starting with 10%)[.]

155. Joon Hoo Lee, LG's Notebook Battery Vice President, wrote in a coded April 4, 2007 email that he had discussed the proposed price increase with a representative of 'S' company, understood to be Samsung. In an email that same day, Lee told Jae Gil Kim of LG to "please make sure that you maintain internal and external security regarding the email, so that people other than the recipients on the list cannot access the email."

156. Later that month, at an April 26, 2007 meeting between LG and Sanyo, the companies “both had the same idea that device makers should share the burden of the sudden price rise of raw materials and that price adjustment would be possible for cylindrical batteries,” as stated in an LG email summary. The LG email further noted that “[i]t was further decided that both would keep exchanging ideas and [that Sanyo] would make Mobile Energy Division leader Mr. Itoh contact LGC Battery Division leader for mutual cooperation.”

1       157. Defendants then exchanged numerous calls and emails throughout the spring and  
 2 summer of 2007 as they coordinated the implementation of their price-setting plan. For instance,  
 3 in an internal email dated June 20, 2007, Samsung's Hee Joung Moon, summarizing a call he had  
 4 with Sony, stated: "[o]pinion that Sony is planning 6MT [type of Lithium Ion Battery] Ramp up  
 5 in August . . . and 3Q pricing has been agreed upon at about JPY [Japanese yen] 320 range. 4Q  
 6 pricing has not been discussed, and for Sony, as long as the cobalt price is maintained at the  
 7 current price level, plan is in progress to [s]tay 3Q pricing in 4Q also."

8       158. A set of notes summarizing Samsung's semi-annual meetings with the Japanese  
 9 Defendants in July 2007, including NEC, Sony, Sanyo, GS Yuasa, and Panasonic, reveals that  
 10 Defendants succeeded in increasing Lithium Ion Battery prices: "An upward trend in market sales  
 11 price continues due to cobalt price increase and the common view on shortage in supply of  
 12 cylindrical type."

13       159. In June 2007, representatives from Defendants Samsung, Sanyo, and Panasonic met  
 14 together at a restaurant in the Shinagawa district of Tokyo, so as to avoid detection by others. The  
 15 participants discussed the successful early 2007 price increase and plotted to raise prices again  
 16 later that year. Defendants also sought to establish a bottom-line selling price. Once the three  
 17 Defendants agreed on the terms of this latest price increase, SDI agreed to transmit the details to  
 18 LG, while Sanyo and Panasonic agreed to share the details with the other Japanese manufacturers.  
 19 Defendants agreed to discuss implementation of the price increase via telephone calls.

20       160. Defendants continued to meet throughout 2007 to exchange production capacity,  
 21 sales volume, and customer information, and continued to make other anticompetitive agreements.  
 22 Summary notes from a round of meetings with Japanese Defendants Sony, Sanyo, GS Yuasa, and  
 23 Panasonic in March 2007 taken by a Samsung representative state, under a bullet point entitled  
 24 "Aggressive Pricing Policy Required to Increase Profitability," that:

25                  Every company showed a keen sensitivity to increasing  
 26 profitability[.] Especially Sanyo and Matsushita [Panasonic] have  
 27 strong interest in achieving profitability in lithium ion business due to  
 deteriorating profitability in nickel-hydride battery.

28

1 Considering supply and demand status based on industry's  
 2 conservative plant expansion, aggressive proposal and adjustment on  
 3 market price while placing emphasis on achieving profitability are  
 required.

4       161. In order to ensure that the agreed price increase was effectuated, Defendants  
 5 discussed with each other their upcoming negotiations with specific customers. For example, on  
 6 October 1, 2007, Hee Jung Moon of Samsung held a call with Mr. Negi of Sony regarding 2008  
 7 Lithium Ion Battery price negotiations with a common customer—Sony Ericsson Mobile  
 8 Communications (“SEMC”). During the call, Moon and Negi, ostensible competitors, strategized  
 9 about how they would “sell” the proposed price increases to SEMC. Then, having agreed on their  
 10 SEMC strategy, they had a follow-up call on October 5 to formulate a plan for selling the price  
 11 increase to Bosch, another common customer.

12       162. On October 5, 2007, LG and Samsung explicitly agreed on the price increase. A  
 13 letter confirming this increase provides: “Dear Vice President Lee [LG], The price agreed with  
 14 [Samsung] is as follows. . . .”

15              **7. Defendants continued to maintain artificial prices in 2008 by using the  
 16 rise of raw material prices as a pretext**

17       163. Throughout 2008, Defendants continued to meet frequently and discuss production  
 18 capacity, supply and demand, customer and competitor movements, and market trends. During  
 19 this period, they also agreed to implement specific battery price increases.

20       164. For example, on January 28, 2008, representatives from LG and Sanyo met at  
 21 Narita airport in Japan where they discussed another round of battery price increases and the  
 22 formula they would use to effectuate those increases. LG was represented by Joon Ho Lee (Vice  
 23 President in charge of Notebook business), Jae Min Park (Notebook CRM team leader), and Deuk  
 24 Yong Kwon (Notebook CRM team). General Manager Ikegami participated on behalf of Sanyo.

25       165. At the same time, in early 2008, the price of cobalt began to climb again. LG's  
 26 contemporaneous discussions with Samsung demonstrate in detail Defendants' plan to tie the price  
 27 increase to the rise in the price of cobalt. This plan became clear from an internal LG email dated  
 28 February 11, 2008:

1           - Effective date: March 1 (March/April/May)

2           - Price increase: by 10% minimum

3           - [Samsung's] Rationale: It is inevitable to increase the price at least by  
 4           10%, because although in the past increase the Cobalt price was \$30,  
 5           Cobalt price of \$40 is applied to months of March/April/May (three  
 6           months). Considering current Cobalt price increases, [Samsung] plans to  
 7           mention in advance that additional price increase is unavoidable for  
 8           June/July/August (three months). (\$40 -> \$50)

9  
 10           (Therefore, it plans to raise price twice, first by 10% at minimum for  
 11           March/April/May, and second by 10% at minimum for  
 12           June/July/August).

13           - [Samsung's] future schedule: [Samsung] will visit its Taiwan customers  
 14           from February 13 to February 15 to explain the plan above and ask for  
 15           their understanding.

16           - LG []'s future schedule: After LG [] also gives a notice to [Samsung], it  
 17           will notify its customers of the price increase, and start to raise price from  
 18           March 1. However, LG [] needs to raise the price by about 12%.

19           LG [] will say that it is inevitable to additionally raise the price 2% more  
 20           compared to other competitors, due to higher production costs compared  
 21           to [Samsung's] capacity.

22           166. Communications in late February 2008 confirmed Defendants' intention to raise  
 23           prices. For example, in an internal LG email thread dated February 27, 2008, LG noted that  
 24           Samsung "reconfirmed" the planned price increase, and "said that [Samsung] does not have any  
 25           problem with raising the price according to the contents mentioned last time." In a February 29,  
 26           2008 meeting between LG and Panasonic, the parties discussed a plan to increase prices, with LG  
 27           planning to follow up with Panasonic General Manager Matsumoto "regarding the price increase  
 28           level."

29           167. Defendants' collusive communications in early 2008 bore fruit later that year. On  
 30           May 16, 2008, LG learned from Samsung that Samsung agreed to increase prices for Lithium Ion  
 31           Batteries effective June 2008. Samsung also agreed that it would lead the increase. LG directed  
 32           its employees to share the information with its overseas branch offices. An internal email among  
 33           LG employees dated May 16, 2008 referenced information "acquired from the Korean S Company

1 [Samsung]," and stated that Samsung is "[p]lanning to increase prices in June (approximately by  
 2 US\$0.16/Cell)."

3       168. By the summer of 2008, the major suppliers had signed onto the plan and had  
 4 increased their prices. An LG email dated June 10, 2008 confirmed that Sony would increase  
 5 Lithium Ion Battery prices as of June 15, 2008, and that Samsung, Panasonic, and Sanyo would  
 6 implement corresponding price increases by July 1, 2008. Meeting minutes from a June 2008 LG  
 7 meeting involving LG's offices in the United States contained a chart that included further detail  
 8 on these price increases.

9  
 10           **8. The conspiracy continued through 2008, even after the price of raw  
                   materials began to fall**

11       169. As the summer of 2008 wore on, the price of cobalt began to drop. Defendants,  
 12 who had sold the price increase to their customers on the basis of the rising price of cobalt, were  
 13 faced with the task of getting their customers to acquiesce to higher Lithium Ion Battery prices  
 14 when the price of cobalt was falling.

15       170. On August 8, 2008, representatives of LG and Panasonic conducted two meetings,  
 16 one at the Lexington Hotel and another at a restaurant over dinner. Minutes from the dinner  
 17 meeting show that falling cobalt prices were foremost in the minds of the representatives who  
 18 talked about how they would "sell" this round of price increases to customers when the price of  
 19 cobalt was no longer rising:

20           Since Cobalt price is falling and battery demand/supply normalization is  
 21 expected soon, customers' growing pressure on price decrease is  
 22 anticipated. In the case of [Panasonic], since it engages in negotiation  
 23 with customers with its price-related mechanism, 4Q price drop derived  
 24 from falling Cobalt price is inevitable, and it is hard to break the rule just  
 to maintain trust with customers. However, even if the price falls, plans  
 to minimize the drop by developing internal logic.

25       171. Later that year, at a meeting on October 10, 2008 at the Narita Airport in Japan,  
 26 representatives of LG and Sanyo discussed production capacity as well as pricing. While Sanyo's  
 27 fourth-quarter adjustment was based on the previously agreed cobalt formula, Defendants realized  
 28

1 that this adjustment needed to be re-worked: "Cobalt's standard price fell by \$4 from \$49 to \$45,  
 2 so price adjustment range is not that great."

3       172. Throughout these discussions, Defendants took steps to make sure that falling  
 4 cobalt prices did not erode the collusive price of Lithium Ion Batteries. In an email describing the  
 5 meeting between LG and Sanyo on October 10, 2008, LG reported that the companies  
 6 "[e]xchanged opinions on preventing activities to destroy prices within the market, and for that  
 7 matter, [were] willing to maintain and expand appropriate company-to-company communication  
 8 about related market information."

9       173. Defendants understood that, to continue selling Lithium Ion Batteries at inflated  
 10 prices, they would have to abandon their original pricing formula which tied the battery price  
 11 increase to increases in the cost of cobalt. At a meeting in Osaka, Japan on December 8, 2008,  
 12 between LG Vice President Lee and Panasonic General Manager Matsumoto, among others, the  
 13 two companies discussed creating a new pricing formula:

14           Both companies agreed that they should defend the current selling price  
 15 because it is hard to secure volume through price cutting. Since  
 16 Panasonic made the cobalt price of \$18/lb as the reference value when it  
 17 first raised the price, it will adjust the selling price by using the current  
 18 formula until the price of cobalt becomes \$18/lb. It said that when the  
 19 price of Cobalt is under \$18/lb, it would consult customers with a new  
 20 formula, adding that they are now studying a new formula.

21       174. Defendants continued their collusion and, as a result, prices remained artificially  
 22 inflated until the last quarter of 2008.

23           **9. Notwithstanding the worldwide economic downturn in late 2008,  
 24 Defendants continued to manipulate Lithium Ion Battery prices**

25       175. In the face of the economic downturn in late 2008, Defendants continued their  
 26 collusive efforts to maintain battery prices at an artificially high level, including continuing to  
 27 meet and exchange competitively sensitive information with each other.

28       176. For example, on October 13, 2008, LG's John Ho Lee sent an email to LG  
 29 Executive Vice President Jungoh Kim that reported on a meeting in Osaka, Japan the previous  
 30 week between LG and the head of sales for Sanyo: "We exchanged opinions on preventing

1 activities to destroy price mechanism within the market, and for that matter, both are willing to  
 2 maintain and expand company-to-company communication about related market information.”

3       177. Similarly, on December 5, 2008, NEC and LG met at NEC’s offices in Tokyo to  
 4 share information regarding capacity and market trends.

5       178. In 2009, in connection with a Lithium Ion Battery bid being submitted to HP during  
 6 a procurement event known as an e-auction, LG and Samsung coordinated their bids with each  
 7 other to manipulate the outcome of the e-auction. Rather than submitting the required “blind bid,”  
 8 LG first consulted with Samsung and submitted a complementary bid that would permit both LG  
 9 and Samsung to get a share of the business being awarded by HP without having to submit a  
 10 competitively low bid.

11       179. Defendants’ collusive conduct continued into 2010 when Apple attempted to  
 12 purchase a specific type of Lithium Ion Battery for use in its popular iPad. Initially, LG and  
 13 Samsung both contemplated selling Lithium Ion Batteries to Apple in the low \$0.40 range. Rather  
 14 than compete with each other, Young Sun Kim of LG Chem, Ltd. directed Dong Woo (Donny)  
 15 Lee of LG Chem America, Inc. to speak to his counterpart at Samsung (who was also in the  
 16 United States at the time). As a result of these communications, the two companies agreed to hold  
 17 firm at \$0.50. Samsung also shared its “4Q roadmap” with LG.

18       180. Defendants’ illegal conduct continued until at least May 2011, when the DOJ’s  
 19 investigation was made public. For example, in February 2011, Samsung and LG worked together  
 20 to manipulate another HP e-auction. Because “only rankings are displayed, and it’s impossible to  
 21 check competitors’ prices” during an auction, these Defendants worked together to develop a  
 22 sophisticated bid-rigging plan to “nullify” the e-auction and, thus, return to their practice of  
 23 submitting bids that had been fully coordinated in advance. An internal LG email dated February  
 24 8, 2011 states that Samsung “consented to the nullification of e-auction, and said that the Bottom  
 25 [price] discussed between the two companies is \$16.” Internal LG emails from March 2011, at  
 26 least one of which contains coded references to competitors, indicate that competitive information  
 27 regarding pricing was still being collusively exchanged.

28

1        181. Defendants' conspiracy to fix, raise, stabilize, and maintain Lithium Ion Battery  
2 prices continued undeterred throughout the Class Period. The initial "cooperation" and collusive  
3 exchanges of competitively sensitive information that enabled Defendants to fix prices evolved  
4 into specific price agreements, bid rigging, supply restrictions, and other conduct to manipulate  
5 prices of Lithium Ion Batteries during the Class Period.

**D. Defendants Sought to Further Implement Their Price-Fixing Conspiracy Through Sales of Lithium Ion Batteries**

## **1. Defendants' communications related to not only Lithium Ion Battery Cells, but also Lithium Ion Batteries**

10 [REDACTED] During the Class Period, Defendants engaged in discussions and attended meetings  
11 with representatives of competitors, during which they colluded regarding the output and price of  
12 Lithium Ion Battery Cells. [REDACTED]

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14 [REDACTED]  
15 2. Defendants had anticompetitive communications with third-party  
16 packers  
17 [REDACTED]  
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19 [REDACTED]  
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6           **E. The U.S. Subsidiary Defendants Knew About the Conspiracy and Undertook**  
7           **Acts in Furtherance Thereof**

8       194. Defendants LG Chem America, Inc., Samsung SDI America, Inc., Panasonic  
9 Corporation of North America, Sanyo North America Corporation, Sony Electronics, Inc., and  
10 Maxell Corporation of America (collectively, “U.S. Subsidiary Defendants”) each consciously  
11 agreed to participate in, and/or can be charged with knowledge of, the conspiracy described  
12 herein.

13           **1. LG Chem America, Inc.**

14       195. Based on the documents reviewed to date, LG Chem America, Inc. consciously  
15 agreed to participate in, and/or can be charged with knowledge of, the conspiracy during the Class  
16 Period.

17 [REDACTED]  
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19 [REDACTED]

20           **2. Samsung SDI America, Inc.**

21       203. Based on the documents reviewed to date, Samsung SDI America, Inc. consciously  
22 agreed to participate in, and/or can be charged with knowledge of, the conspiracy during the Class  
23 Period.

24 [REDACTED]  
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25           **3. Panasonic Corporation of North America**

26       210. Based on the documents reviewed to date, Panasonic Corporation of North  
27 America consciously agreed to participate in, and/or can be charged with knowledge of, the  
28 conspiracy during the Class Period.

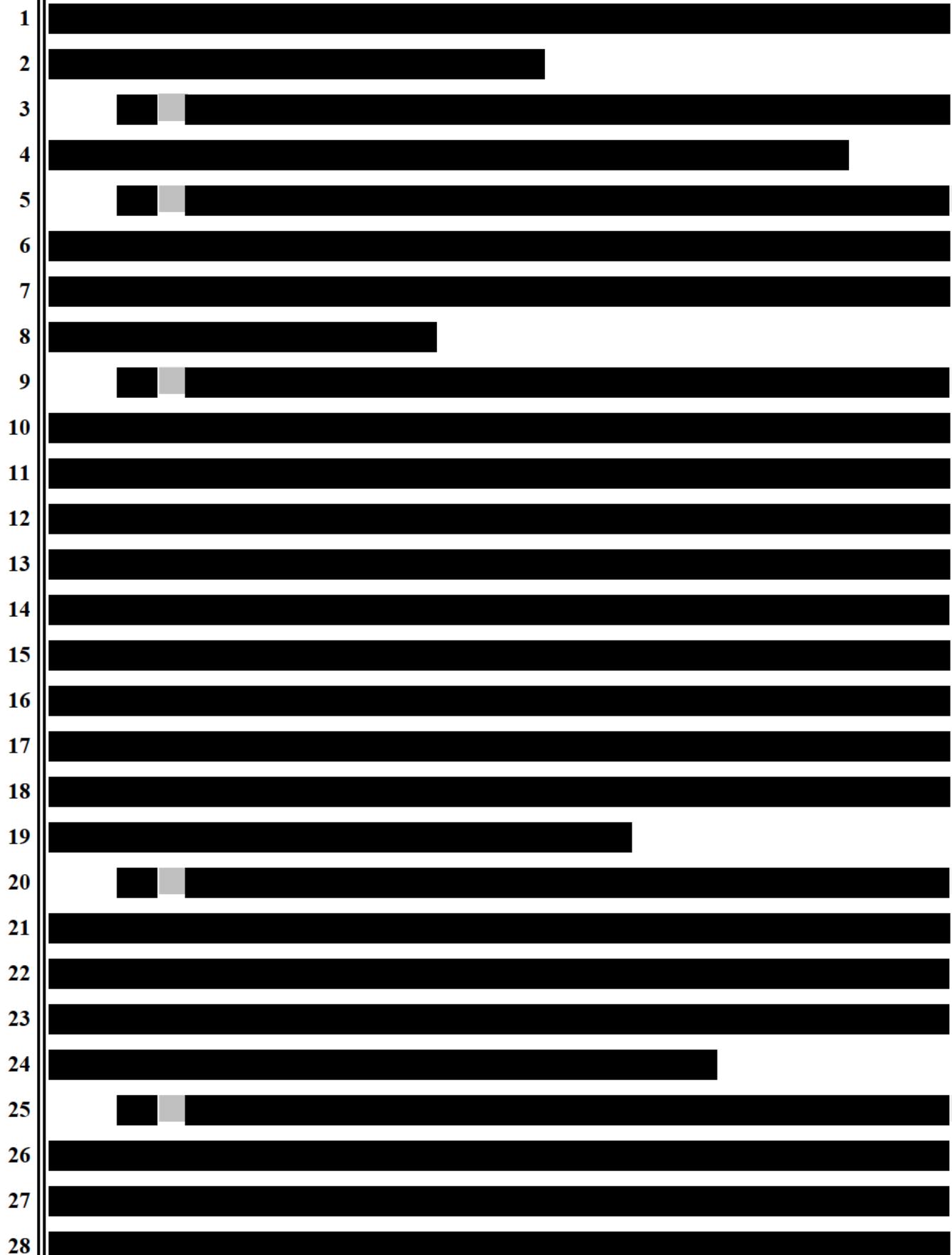
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1           **4. Sanyo North America Corporation**

2       216. Based on the documents reviewed to date, Sanyo North America Corporation  
3       consciously agreed to participate in, and/or can be charged with knowledge of, the conspiracy  
4       during the Class Period.

5 [REDACTED]  
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13 [REDACTED]  
14 [REDACTED]  
15       **5. Sony Electronics, Inc.**  
16   225. Based on the documents reviewed to date, Sony Electronics, Inc. consciously  
17 agreed to participate in, and/or can be charged with knowledge of, the conspiracy during the Class  
18 Period.  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
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9 [REDACTED] [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED] [REDACTED]  
13 [REDACTED]

14         **6. Maxell Corporation of America**

15         236. Based on the documents reviewed to date, Maxell Corporation of America  
16 consciously agreed to participate in, and/or can be charged with knowledge of, the conspiracy  
17 during the Class Period.

18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED] [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

25         **F. The Price Movements of Lithium Ion Batteries During the Class Period Are**  
26         **Consistent With Collusion, Not Competition**

27         239. Defendants' regular, collusive communications, agreements, and other conduct  
28 over more than a decade, as alleged above, set forth in detail Defendants' acts in furtherance of

1 their conspiracy. As explained in this subsection and subsections VI.G and VI.H below, pricing  
 2 behavior, capacity utilization, and the structural and other characteristics of the Lithium Ion  
 3 Battery market further demonstrate the existence of Defendants' conspiracy.

4       240. Many analysts predicted that, given technological changes and the economics of  
 5 the marketplace, Lithium Ion Battery prices would fall during the Class Period. In fact, prices not  
 6 only failed to decline throughout most of the Class Period, they rose.

7       241. As shown below, the initial period, from 2000 to 2002, was marked by declining  
 8 prices corresponding to the entry of Korean firms into the Lithium Ion Battery market.  
 9 Nonetheless, as a result of Defendants' collusive communications, Lithium Ion Battery prices  
 10 declined less rapidly than they would have in a competitive market. By 2002, prices stabilized,  
 11 and then started to increase from 2003 to 2008. In late 2008, Lithium Ion Battery prices declined  
 12 along with the demand shock of the global recession. However, Defendants quickly stabilized this  
 13 decline. By mid-2009, prices again were relatively flat until the DOJ investigation was publicly  
 14 announced in May 2011, at which point prices dropped. The graph below depicts these price  
 15 movements.

16

17

### Lithium-Ion Battery Price Index

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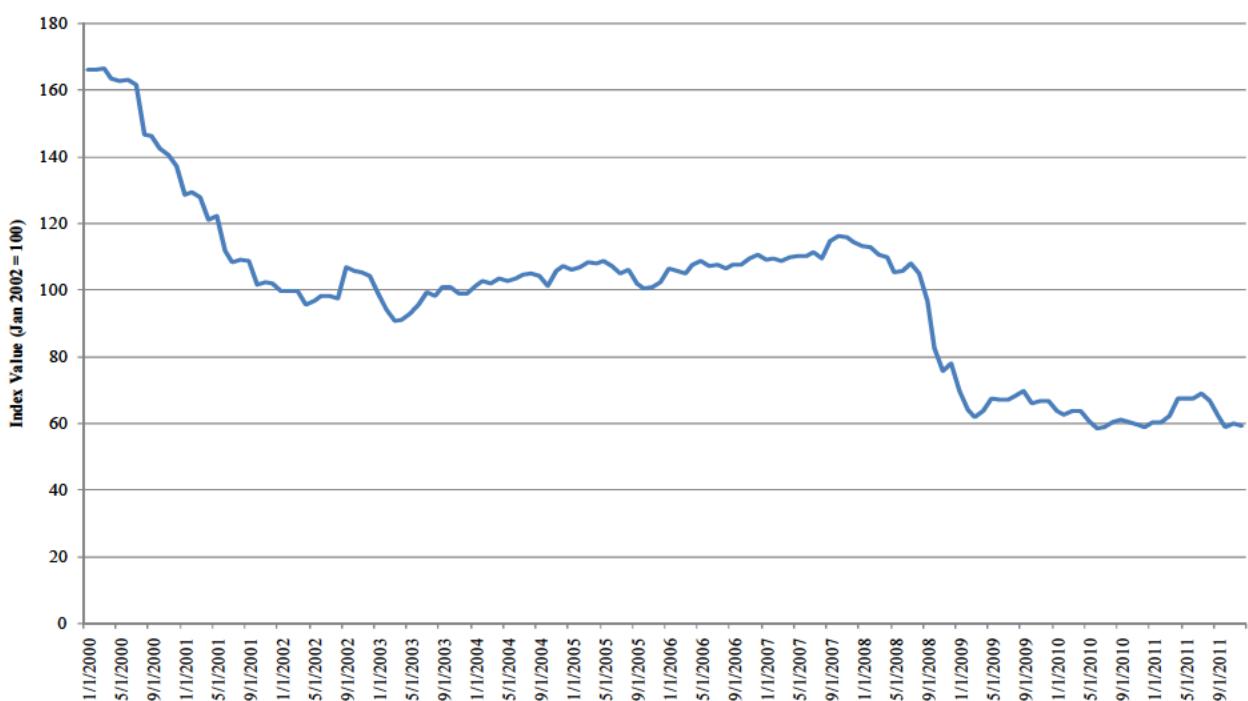
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8 Source: Bank of Korea (converted to USD using exchange rates in Bloomberg).

1       242. Numerous technical studies undertaken throughout the 2000s predicted that scale  
 2 economies and learning curves would act to lower cost as production volumes expanded. For  
 3 example, one study concluded, “while the NiMH [nickel metal hydride] battery is nearing  
 4 fundamental practical limits . . . lithium ion batteries are still improving. With continued  
 5 improvements in charge storage capability, lithium-ion’s advantage will become more pronounced  
 6 with the passage of time. . . . Though this trend has slowed somewhat in recent years with the  
 7 maturation of cobalt- and nickel metal-oxide based lithium-ion batteries, other materials have the  
 8 potential to allow for continued growth. . . .”<sup>5</sup> The availability of alternative materials for Lithium  
 9 Ion Battery composition allowed for continued increases in energy density during the Class  
 10 Period. This trend of increasing energy density is anticipated to continue into the future. The  
 11 improved safety and energy characteristics of these materials leads analysts to forecast that  
 12 Lithium Ion Batteries will overtake NiMH as the predominant battery technology in that product  
 13 market, opening up additional opportunities for economies of scale.

14       243. The authors of a 2006 study observed that “[i]n addition to this fundamental  
 15 advantage with respect to specific energy and power, lithium ion batteries also offer the potential  
 16 for lower cost as the technology matures and production volumes increase. Although more  
 17 expensive than NiMH batteries today, Lithium Ion Batteries scale more readily to high volume  
 18 production hence have greater potential for cost reduction.”<sup>6</sup>

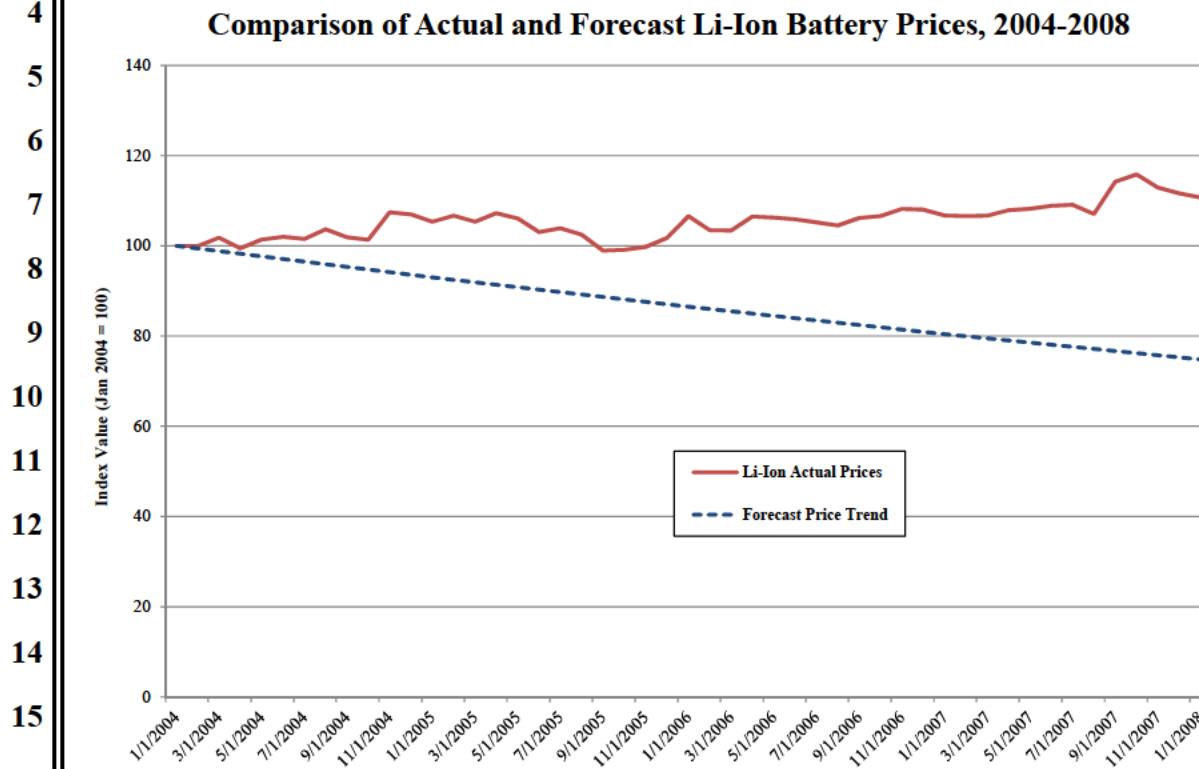
19       244. Basic economic principles support the notion that, in a competitive market, these  
 20 increasing volumes of production should have been associated with continuing price declines for  
 21 Lithium Ion Batteries.

22       245. A 2004 industry report forecasted that prices would decline by 7% per year  
 23 between 2004 and 2008. Instead, because of the actions of Defendants and their Co-Conspirators,

24  
 25       <sup>5</sup> Kromer, M. A., & Heywood, J. B., *Electric Powertrains: Opportunities and Challenges in the U.S. Light-Duty Vehicle Fleet*, Cambridge, MA: Sloan Automotive Laboratory, Massachusetts Institute of Technology (2007), available at [http://web.mit.edu/sloan-autolab/research/beforeh2/files/kromer\\_electric\\_powertrains.pdf](http://web.mit.edu/sloan-autolab/research/beforeh2/files/kromer_electric_powertrains.pdf), at p. 36.

26  
 27       <sup>6</sup> *Id. citing* Miller, T. Hybrid Battery Technology and Challenges. Technology Review’s Emerging  
 28 Technology Conference, 9/28/2006.

1 average prices for Lithium Ion Batteries rose by almost 11% between January 2004 and January  
 2 2008. As shown in the graph below, actual prices did not experience a decline until late 2008 and  
 3 early 2009, when the economic recession took hold.



17 Source: Bank of Korea; Bloomberg; Avicenne.

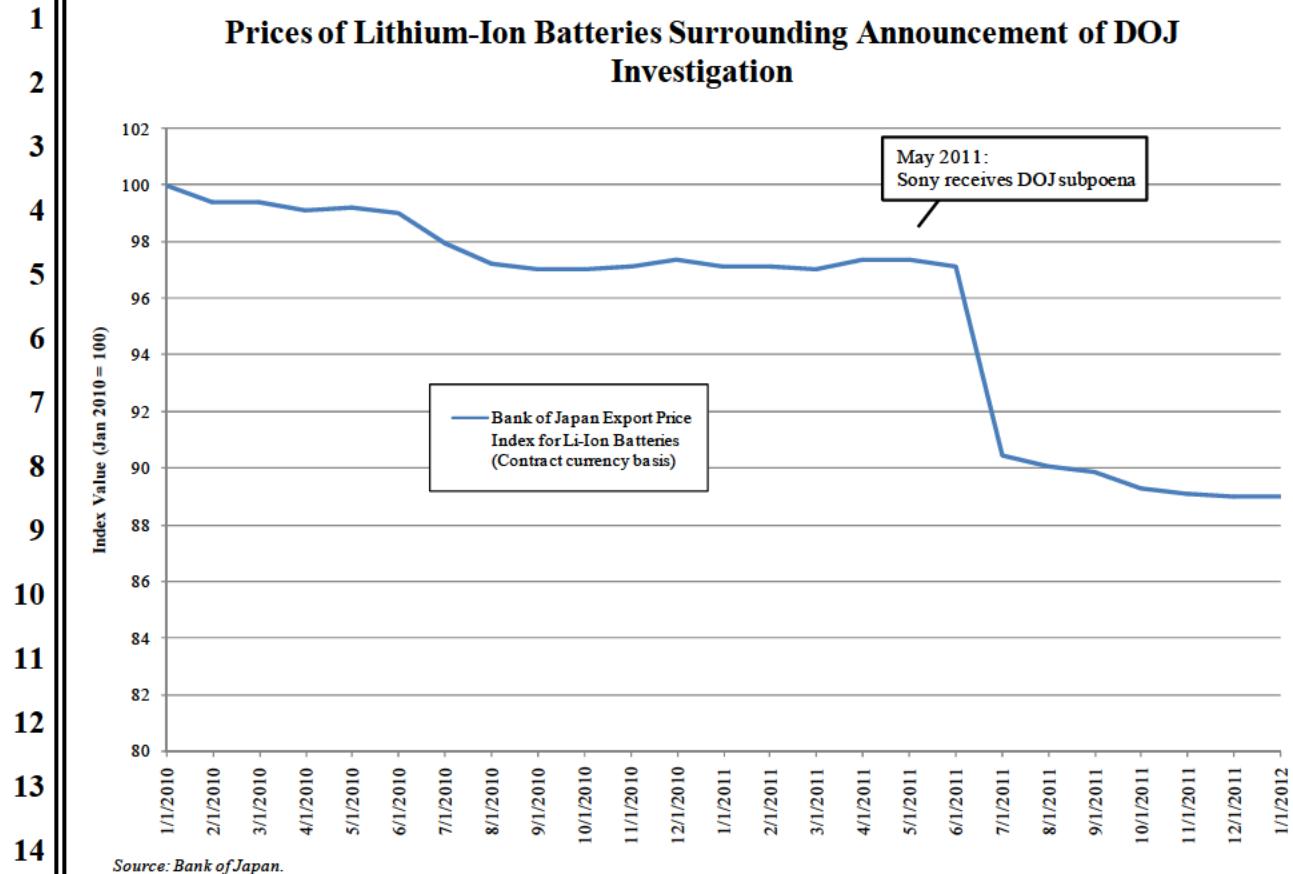
18 246. Even following the price drops occasioned by the downward demand of the  
 19 recession, Lithium Ion Battery prices stabilized—yet again—until shortly after May 3, 2011, when  
 20 Sony and other suppliers received a subpoena from the DOJ for information on competition in  
 21 rechargeable batteries. Upon Sony's public announcement of having received a subpoena,  
 22 Lithium Ion Battery prices dropped significantly, as shown below. Average prices fell by nearly  
 23 7% between June and July 2011, and continued to decline in subsequent months through the end  
 24 of 2011.

25 //

26 //

27 //

28 //



**G. Defendants' Capacity Utilization During the Class Period is Consistent with Collusion, Not Competition**

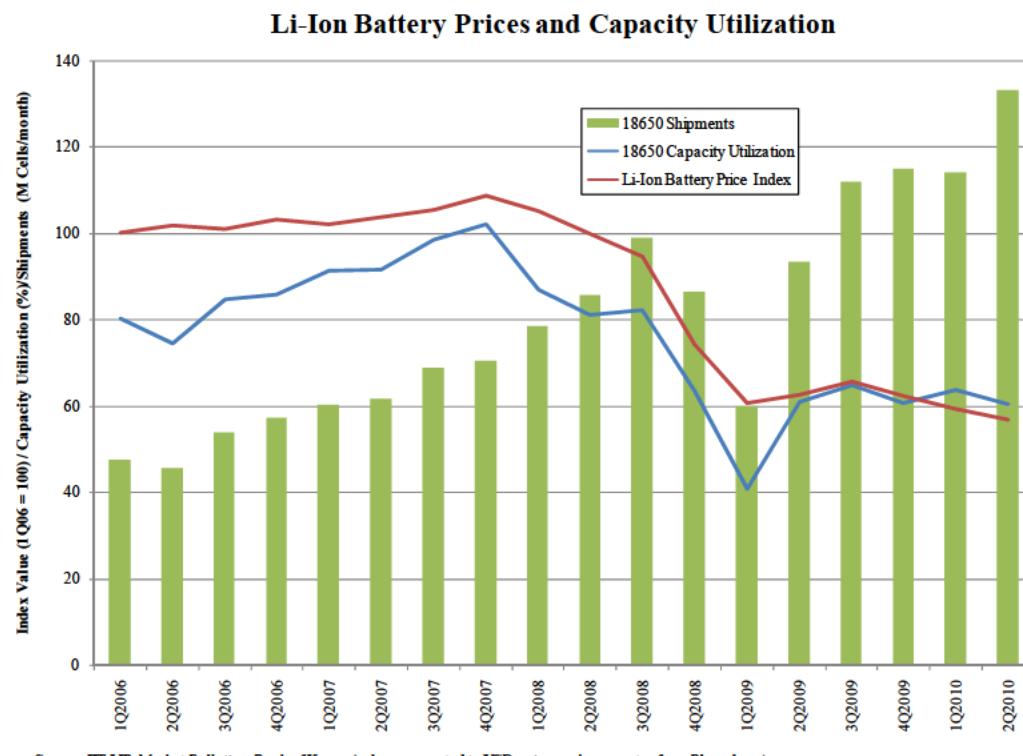
247. While Defendants expanded their production capacity during the Class Period, in the latter years a significant amount of that capacity was under-utilized, but prices remained stable. These circumstances are consistent with Defendants' collusive behavior rather than a competitive market.

248. In early 2008, in anticipation of long-term growth in hybrid-electric and electric vehicle production, many Defendants announced plans to expand their Lithium Ion Battery production capacity. In Japan, Panasonic announced that it would raise its capacity by 83%, Sony announced plans to raise its capacity by 80%, and Sanyo announced that it would raise its capacity by 36%. Among the Korean manufacturers, Samsung announced plans to raise its capacity by 93% and LG announced that it would raise its capacity by 86%.

1        249. This capacity expansion was ill-timed, because the fourth quarter of 2008 saw the  
2 onset of a worldwide economic crisis and a corresponding decline in demand for Lithium Ion  
3 Batteries. By the first quarter of 2009, Defendants' shipments of Lithium Ion Batteries dropped  
4 significantly from mid-2008 highs. Industry analysts predicted that Defendants' new capacity,  
5 combined with lower demand for consumer electronic products, would result in an oversupply of  
6 Lithium Ion Batteries. But despite the anticipated glut and decreased demand, prices ultimately  
7 stabilized and began to increase.

8        250. To stem the late 2008–09 price decline due to capacity expansion during an  
9 economic crisis, Defendants cut production in a coordinated fashion. As a result, prices for  
10 Lithium Ion Batteries stabilized by the end of 2009.

11        251. Basic economic principles teach that over time, prices tend to decrease as the  
12 capacity available to supply those products increases relative to total demand. Conversely, when  
13 capacity is constrained, competitively set prices may increase rapidly. The figure below compares  
14 Lithium Ion Battery prices to total shipments and capacity utilization for model 18650 batteries,  
15 the most common type of cylindrical Lithium Ion Battery.



*Source: IIT LIB Market Bulletins; Bank of Korea (values converted to USD using exchange rates from Bloomberg)*

1       252. When demand for Lithium Ion Batteries decreased at the onset of the recession in  
 2 2008, shipments, pricing, and capacity utilization all decreased, as shown above. Yet, by the  
 3 beginning of 2009, despite under-utilization of existing (and new) capacity, Lithium Ion Battery  
 4 pricing stabilized. After the first quarter of 2009, shipments returned to their pre-recession growth  
 5 path, but capacity utilization remained at levels below pre-recession levels.

6       253. Price stability when capacity is under-utilized is not consistent with a competitive  
 7 market. In a competitive market, firms would be expected to increase their individual capacity  
 8 utilization rates to gain market share, which would have caused further price declines. Instead, the  
 9 price of Lithium Ion Batteries increased and then remained relatively flat with capacity remaining  
 10 under-utilized. Such behavior is much more consistent with market collusion rather than with a  
 11 freely competitive market.

12           **H. The Structure and Characteristics of the Lithium Ion Battery Market,**  
 13           **Together with Other Factors, Render the Conspiracy Economically Plausible**

14       254. In addition to the numerous acts in furtherance of Defendants' conspiracy to fix,  
 15 raise, stabilize, and maintain the price of Lithium Ion Batteries during the Class Period, the  
 16 structure and other characteristics of the Lithium Ion Battery market in the United States are  
 17 conducive to a price-fixing agreement, and made collusion particularly attractive to Defendants.

18       255. Specifically, the Lithium Ion Battery market (1) has high barriers to entry and (2) is  
 19 concentrated. In addition to these market characteristics, (3) the existence of government  
 20 investigations into anticompetitive conduct in this market, (4) Defendants' history of colluding to  
 21 fix prices for critical components of consumer electronics, and (5) the existence of trade  
 22 associations and other common forums, all support and facilitate the existence of the conspiracy  
 23 Plaintiffs allege in this Complaint. Accordingly, the conspiracy was economically plausible.

24           **1. The Lithium Ion Battery market has high barriers to entry**

25       256. A collusive arrangement that raises product prices above competitive levels would,  
 26 under basic economic principles, attract new entrants seeking to benefit from the supracompetitive  
 27 pricing. Where, however, there are significant barriers to entry, new entrants are less likely. Thus,  
 28 barriers to entry help to facilitate the formation and maintenance of a cartel.

1       257. During the Class Period and continuing today, substantial barriers impede entry  
 2 into the Lithium Ion Battery market. A new entrant into the market would face costly and lengthy  
 3 start-up costs, including multi-million dollar costs associated with research and development,  
 4 manufacturing plants and equipment, energy, transportation distribution infrastructure, skilled  
 5 labor, long-standing customer relationships, safety and quality assurance, and reduction of high  
 6 failure rates.

7       258. Defendants themselves acknowledged the substantial costs of entering the market.  
 8 For example, during a November 21, 2002 meeting with LG, Yasuhiro Hosozawa, the Senior  
 9 General Manager of the PCC Business Division for Sony Corporation's Core Technology &  
 10 Network Company, recognized that "this is a business requiring a huge cost including R&D cost  
 11 because technological capability is necessary to do this business." Mr. Hosozawa stated that the  
 12 enhanced performance of TFT-LCD technology was only "possible after 30 years of research and  
 13 development, and as for Li-Ion, it's only been 10 years, so there must be continued R&D  
 14 efforts." LG's Senior Manager Seok Hwan Kwak agreed with Mr. Hosozawa's assessment.

15       259. Late-coming Chinese battery suppliers limited their production plans and product  
 16 lines due to the high cost of entry. For example, in 2007, Chinese supplier Tianjin Lishen Battery  
 17 Joint-Stock Co., Ltd. ("Lishen") was not aggressive in entering the cylindrical battery business,  
 18 because it could not secure uniform product quality without a substantial financial investment in  
 19 equipment. Lishen already had postponed expanding into cylindrical batteries when LG began  
 20 manufacturing Lithium Ion Batteries in Nanjing in 2005.

21       260. One of the biggest barriers to entry into the Lithium Ion Battery market is the high  
 22 cost of fabrication plants ("fabs"), where the batteries are manufactured. In 2011, Panasonic  
 23 announced that it planned to build a new fab in China that would cost up to \$366 million. Also in  
 24 2011, LG announced that it planned to build two new fabs in South Korea and the United States  
 25 that would cost \$1.84 billion. In 2012, Samsung SDI announced that it would invest over \$700  
 26 million over the next five years to upgrade its Malaysian factory in order to manufacture Lithium  
 27 Ion Batteries.

28

1       261. In addition to the large costs of building a plant, given the nature of the materials  
 2 used in Lithium Ion Batteries, any new entrant would be required to comply with environmental  
 3 regulations in whatever jurisdiction such plant is built. Compliance would require extensive  
 4 testing and the receipt of government approvals, all of which would take many years.

5       262. Defendants also own multiple patents for Lithium Ion Batteries. These patents  
 6 place a significant and costly burden on potential new entrants, which must avoid infringing on the  
 7 patents when entering the market with a new product. Samsung, Panasonic, Sony, Sanyo, and LG  
 8 Chem account for more than 80% of the patents filed in the United States for Lithium Ion  
 9 Batteries.

**10           2.       The market for Lithium Ion Batteries is concentrated**

11       263. A concentrated market is more susceptible to collusion and other anticompetitive  
 12 practices. The Lithium Ion Battery market was concentrated during the Class Period. In fact,  
 13 throughout the Class Period, Defendants together have maintained extremely high market shares,  
 14 ranging from 73% to 95%.

**15           3.       Government investigators are targeting certain Defendants in  
 16                   connection with fixing the price of rechargeable batteries**

17       264. A globally coordinated antitrust investigation is taking place in at least the United  
 18 States and Europe, aimed at suppliers of Lithium Ion Batteries.

19       265. Around May 2011, Sony Corporation disclosed in its Form 20-F for the fiscal year  
 20 ending March 31, 2011 that its wholly-owned United States subsidiary, Sony Electronics, Inc.,  
 21 “received a subpoena from the United States Department of Justice (“DOJ”) Antitrust Division  
 22 seeking information about its secondary battery business.” Sony further disclosed:

23       Sony understands that the DOJ and agencies outside the United  
 24 States are investigating competition in the secondary batteries  
 25 market. Based on the stage of the proceedings, it is not possible to  
 26 estimate the amount of loss or range of possible loss, if any, that  
 might result from adverse judgments, settlements or other  
 resolutions of this matter.

27       266. Around August 20, 2012, LG confirmed that it also was the target of the DOJ’s  
 28 investigation.

267. News articles have confirmed that, in addition to Sony and LG, Samsung and Panasonic are also under investigation by the DOJ for price fixing with respect to the sale of rechargeable batteries.

268. It is significant that Defendants' anticompetitive behavior is the subject of a criminal grand jury investigation being conducted by the DOJ. For the DOJ to institute a grand jury investigation, a DOJ Antitrust Division attorney must believe that a crime has been committed and prepare a detailed memorandum to that effect.<sup>7</sup> Following a review of that memorandum, the request for a grand jury must be approved by the Assistant Attorney General for the Antitrust Division, based on the standard that a criminal violation may have occurred.

10        269. That the DOJ Antitrust Division investigation is criminal, as opposed to civil, is  
11 significant as well. The Antitrust Division’s “Standards for Determining Whether to Proceed by  
12 Civil or Criminal Investigation” state: “In general, current Division policy is to proceed by  
13 criminal investigation and prosecution in cases involving horizontal, *per se* unlawful agreements  
14 such as price fixing, bid rigging and horizontal customer and territorial allocations.”<sup>8</sup>  
15 Accordingly, the existence of a criminal investigation into the market for Lithium Ion Batteries  
16 supports the existence of the unlawful conspiracy alleged in this Complaint.

17        270. On September 20, 2013, Sanyo Electric Co., Ltd. pled guilty to one count of  
18 conspiring to fix prices in violation of Section 1 of the Sherman Act. The conspiracy to which  
19 Sanyo Electric Co., Ltd. pled guilty was one to fix the prices of cylindrical lithium ion battery  
20 cells sold in the United States and elsewhere for use in notebook computer battery packs from  
21 about April 2007 to about September 2008. Sanyo Electric Co., Ltd.'s factual admissions in its  
22 Plea Agreement included the following:

a. In furtherance of the conspiracy, Sanyo Electric Co., Ltd. and its parent  
Panasonic Corporation, through their employees, engaged in discussions and

<sup>26</sup> <sup>7</sup> See Antitrust Grand Jury Practice Manual, Vol. 1, Ch. I.B.1 (1991), available at <http://www.justice.gov/atr/public/guidelines/206542.htm> (last accessed May 1, 2013).

<sup>27</sup> See Antitrust Division Manual, Chapter III.C.5, III-12 (Nov. 2012), available at <http://www.justice.gov/atr/public/divisionmanual/chapter3.pdf> (last accessed May 1, 2013).

1           attended meetings with representatives of competitors, during which they  
 2           reached agreements to fix prices of cylindrical lithium ion battery cells.

- 3           b. The cells and packs containing the price-fixed cells, as well as payments for  
         4           both, traveled in interstate and foreign trade and commerce.
- 5           c. The business activities of Sanyo Electric Co., Ltd. and its co-conspirators were  
         6           within the flow of, and substantially affected, interstate and foreign trade and  
         7           commerce.
- 8           d. Acts in furtherance of the conspiracy were carried out within the Northern  
         9           District of California. Cells and battery packs containing the price-fixed cells  
 10           were sold by one or more of the conspirators to customers in this District.

11           271. On October 10, 2013, LG Chem, Ltd. pled guilty to one count of conspiring to fix  
 12           prices in violation of Section 1 of the Sherman Act. The conspiracy to which LG Chem, Ltd. pled  
 13           guilty was one to fix the prices of cylindrical lithium ion battery cells sold in the United States and  
 14           elsewhere for use in notebook computer battery packs from about April 2007 to about September  
 15           2008. LG Chem, Ltd.'s factual admissions in its Plea Agreement included the following:

- 16           a. In furtherance of the conspiracy, LG Chem, Ltd., through its employees,  
         17           engaged in discussions and attended meetings with representatives of  
         18           competitors, during which they reached agreements to fix prices of cylindrical  
         19           lithium ion battery cells.
- 20           b. The cells and packs containing the price-fixed cells, as well as payments for  
         21           both, traveled in interstate and foreign trade and commerce.
- 22           c. The business activities of LG Chem, Ltd. and its co-conspirators were within  
         23           the flow of, and substantially affected, interstate and foreign trade and  
         24           commerce.
- 25           d. Acts in furtherance of the conspiracy were carried out within the Northern  
         26           District of California. Cells and battery packs containing the price-fixed cells  
         27           were sold by one or more of the conspirators to customers in this District.

28           272. The DOJ's investigation into the Lithium Ion Battery market remains ongoing.

1                   **4. Defendants have a history of colluding to fix prices for critical**  
 2                   **components of consumer electronics**

3                 273. Many Defendants and their affiliates have a long history of criminal collusion and  
 4                 are either currently involved in worldwide competition authority investigations into other  
 5                 technology-related markets, or have been convicted of participating in price-fixing cartels  
 6                 involving technology-related products. Much of the illegal conduct to which Defendants or their  
 7                 affiliates have admitted took place during the Class Period identified in this Complaint.

8                 274. A notebook computer contains four key pieces of hardware: a dynamic random  
 9                 access memory (“DRAM”) chip, a thin-film transistor liquid crystal display (“TFT-LCD”) screen,  
 10                an optical disk drive (“ODD”), and a Lithium Ion Battery. Several Defendants and/or their  
 11                affiliates have pled guilty to fixing the prices of the first three of these components, and the DOJ is  
 12                investigating whether to bring criminal price-fixing charges for the fourth component—Lithium  
 13                Ion Batteries.

14                275. Around October 2005, Samsung Electronics Company, Ltd. and Samsung  
 15                Semiconductor, Inc., affiliates of the Samsung Defendants, pled guilty and paid a \$300 million  
 16                fine for “participating in an international conspiracy to fix prices in the [DRAM] market” from  
 17                approximately April 1, 1999 through June 15, 2002. In addition, six Samsung executives pled  
 18                guilty to participating in the conspiracy with respect to DRAM. Each paid a \$250,000 criminal  
 19                fine and served a prison sentence in the United States ranging from seven to fourteen months.

20                276. In November 2008, LG Display Co., Ltd. (“LG Display”), an affiliate of the LG  
 21                Defendants, pled guilty and paid a \$400 million fine to the United States, in connection with its  
 22                participation in a worldwide conspiracy to fix the prices of TFT-LCD screens during the period  
 23                from September 2001 through June 2006. At the time, LG Display paid the second-highest fine  
 24                ever imposed by the Antitrust Division of the DOJ. In addition, in April 2009, an executive of LG  
 25                Display pled guilty to participating in the global TFT-LCD conspiracy from September 2001  
 26                through June 2006, served 12 months in a federal prison, and paid a \$30,000 criminal fine. In  
 27                February 2009, another LG Display executive pled guilty to participating in the global conspiracy  
 28                with respect to TFT-LCDs from September 2001 through December 2006.

277. In March 2009, Hitachi Displays, Ltd., an affiliate of the Hitachi Maxell Defendants, pled guilty and paid a \$31 million fine for participating in that same conspiracy during the period from April 2001 through March 2004.

4        278. Around March 2011, Defendant Samsung SDI Co., Ltd. pled guilty and paid a \$32  
5 million fine for participating in a “global conspiracy to fix prices, reduce output, and allocate  
6 market share of color display tubes, a type of cathode ray tube used in computer monitors and  
7 other specialized applications” from approximately January 1997 through at least March 2006.  
8 Also in March 2011, the Korean Fair Trade Commission issued a public report that identified  
9 Samsung employees who participated in collusive meetings and agreements with competitors in  
10 the cathode ray tube industry. Several of the identified employees became senior executives in  
11 Samsung’s Lithium Ion Battery business.

12        279. In September 2010, Defendant Panasonic Corporation pled guilty and paid a \$49.1  
13 million fine for participating in a conspiracy to “suppress and eliminate competition by fixing  
14 prices to customers of household compressors” during the period October 14, 2004 through  
15 December 31, 2007.

16           280. In September 2011, Hitachi-LG Data Storage, Inc. (a joint venture between  
17 Japanese company Hitachi, Ltd. and Korean company LG Electronics, Inc.) pled guilty and paid a  
18 \$21.1 million fine for participating in various bid-rigging and price-fixing conspiracies for ODDs  
19 during the period from June 2004 through September 2009.

20        281. The foregoing pattern of anticompetitive practices in various technology-related  
21 markets is illustrative of Defendants' corporate conduct, which has included illegal activity aimed  
22 at generating profits at the expense of their customers.

**5. Trade associations and other common forums facilitated Defendants' collusion**

25        282. Defendants are members of several battery trade associations, which they used to  
26 facilitate their conspiratorial conduct.

27 283. Panasonic, Sanyo, Sony, and Hitachi Maxell, and a Samsung affiliate are all  
members of the Battery Association of Japan (“BAJ”). The BAJ’s stated purpose is to “promote[]

1 research and development of batteries and battery applied products.” Among its primary tasks is  
 2 participating in international working groups and conferences “in order to exchange information  
 3 and promote international collaboration.” Samsung and LG are members of the Battery R&D  
 4 Association of Korea (“KORBA”), which Defendants described as “the counterpart of the BAJ.”

5       284. Defendants used the BAJ to facilitate collusive price increases. For example, in a  
 6 March 2, 2004 high-level meeting between Sony and LG, Sony revealed to LG that it had “pushed  
 7 BAJ (Battery Association of Japan) to help with this issue [*i.e.*, raising prices], and BAJ will ask  
 8 companies for cooperation through various channels.” Principals at this meeting from Sony  
 9 included Yutaka Nakagawa (Deputy President of Micro Systems Network Company (“MSNC”))  
 10 and President of Energy Company, the division of Sony that produces Lithium Ion Batteries),  
 11 Hirokazu Kamiyama (Division Leader of MSNC), and Toshiaki Naito (General Manager of  
 12 cellular battery division). Principals for LG included Soon Yong Hong (Executive Vice President  
 13 and President of I&E Materials), Director Myung Hwan Kim (Battery Division leader), and Senior  
 14 Manager Seok Hwan Kwak.

15       285. Defendants also used the trade associations to cooperate with each other and inhibit  
 16 other entrants into the Lithium Ion Battery market. For instance, during a top management  
 17 meeting in July 2005, Mitsuru Honma, the group leader for Sanyo’s division responsible for  
 18 rechargeable batteries, and LG’s CEO Noh Ki-ho discussed using BAJ and KORBA to cooperate,  
 19 facilitate exchanges of technology, and establish safety standards. Similar discussions were held  
 20 during a September 2005 top meeting between Toru Ishida, the President of MBI, and LG’s Mr.  
 21 Noh. At the time these meetings occurred, Mr. Ishida was the President of the BAJ, Mr. Honma  
 22 was the Vice President of the BAJ, and Mr. Noh was the CEO of KORBA. LG’s minutes of these  
 23 meetings explain that setting safety standards not only protected customers, but also enabled  
 24 Defendants to “prevent[] Chinese companies . . . from entering the market with low prices alone.”

25       286. Defendants continued to use the trade associations to prevent new market entrants  
 26 and increase prices throughout the Class Period. Notes of a February 2008 meeting between  
 27 senior executives of Panasonic and LG refer to Panasonic General Manager Matsumoto as saying,  
 28 “Battery regulations, such as BAJ, can ultimately stop new makers, whose product qualities are

1 not stable, from entering the market, while emphasizing safety technologies' importance to  
 2 customers and helping the cell makers receive premium prices for the technologies. Therefore, it  
 3 [Panasonic] is aggressively supporting the activities, and asked us [LG] to actively join the  
 4 moves."

5 **VII. CLASS ACTION ALLEGATIONS**

6 287. Plaintiffs brings this class action pursuant to Federal Rules of Civil Procedure 23(a)  
 7 and 23(b)(2) and (b)(3), on their own behalf and as representatives of the following class of  
 8 persons and entities (the "Class"):

9 All persons and entities that purchased a Lithium Ion Battery or  
 10 Lithium Ion Battery Product from any Defendant, or any division,  
 11 subsidiary or affiliate thereof, or any co-conspirator in the United  
 12 States during the Class Period, from January 1, 2000 through May  
 13 31, 2011. Excluded from the Class are Defendants, their parent  
 14 companies, subsidiaries and affiliates, any Co-Conspirators, federal  
 15 governmental entities and instrumentalities of the federal  
 16 government, states and their subdivisions, agencies and  
 17 instrumentalities, and any judge or jurors assigned to this case.

18 288. While Plaintiffs do not know the exact number of the members of the Class,  
 19 Plaintiffs believe there are at least thousands of members in the Class.

20 289. Common questions of law and fact exist as to all members of the Class. This is  
 21 particularly true given the nature of Defendants' conspiracy, which was generally applicable to all  
 22 members of the Class, thereby making appropriate relief with respect to the Class as a whole.  
 23 Such common questions of law and fact include but are not limited to:

24       a.     Whether Defendants and their Co-Conspirators combined and conspired  
 25 among themselves to fix, raise, stabilize, or maintain the prices of Lithium Ion Batteries sold in  
 26 the United States;

27       b.     Whether Defendants and their Co-Conspirators combined and conspired to  
 28 reduce output of Lithium Ion Batteries sold in the United States;

29       c.     The identity of the participants of the alleged conspiracy;

30       d.     The duration of the alleged conspiracy;

1                   e.     The acts carried out by Defendants and their Co-Conspirators in  
 2 furtherance of the conspiracy;

3                   f.     Whether the alleged conspiracy violated the Sherman Act;

4                   g.     Whether the conduct of Defendants and their Co-Conspirators, as alleged  
 5 in this Complaint, caused injury to the business or property of Plaintiffs and the members of the  
 6 Class;

7                   h.     The effect of the alleged conspiracy on the prices of Lithium Ion Batteries  
 8 and Lithium Ion Battery Products sold in the United States during the Class Period;

9                   i.     Whether Defendants and their Co-Conspirators concealed the conspiracy's  
 10 existence from the Plaintiffs and the members of the Class;

11                  j.     The appropriate injunctive and related equitable relief for the Class; and

12                  k.     The appropriate class-wide measure of damages.

13       290. Plaintiffs' claims are typical of the claims of the members of the Class, and  
 14 Plaintiffs will fairly and adequately protect the interests of the Class. Plaintiffs and all members of  
 15 the Class are similarly affected by Defendants' wrongful conduct in that they paid inflated prices  
 16 for Lithium Ion Batteries or Lithium Ion Battery Products purchased from Defendants, their  
 17 divisions, subsidiaries or affiliates, or their Co-Conspirators.

18       291. Plaintiffs' claims arise out of the same common course of conduct giving rise to the  
 19 claims of the other members of the Class. Plaintiffs' interests are coincident with, and not  
 20 antagonistic to, those of the other members of the Class. Plaintiffs are represented by counsel who  
 21 are competent and experienced in the prosecution of antitrust and class action litigation.

22       292. The questions of law and fact common to the members of the Class predominate  
 23 over any questions affecting only individual members, including legal and factual issues relating  
 24 to liability and damages.

25       293. Class action treatment is a superior method for the fair and efficient adjudication of  
 26 the controversy—in that, among other things, such treatment will permit a large number of  
 27 similarly situated persons to prosecute their common claims in a single forum simultaneously,  
 28 efficiently and without the unnecessary duplication of evidence, effort, and expense that numerous

1 individual actions would engender. The benefits of proceeding through the class mechanism,  
 2 including providing injured persons or entities with a method for obtaining redress for claims that  
 3 might not be practicable to pursue individually, substantially outweigh any difficulties that may  
 4 arise in the management of this class action.

5       294. The prosecution of separate actions by individual members of the Class would  
 6 create a risk of inconsistent or varying adjudications, establishing incompatible standards of  
 7 conduct for Defendants.

8 **VIII. ANTITRUST INJURY**

9       295. Defendants' conspiracy had the following effects, among others:

10           a.      Price competition has been restrained or eliminated with respect to Lithium  
 11 Ion Batteries;

12           b.      The prices of Lithium Ion Batteries have been fixed, raised, stabilized, or  
 13 maintained at artificially inflated levels; and

14           c.      Purchasers of Lithium Ion Batteries and Lithium Ion Battery Products have  
 15 been deprived of free and open competition.

16       296. During the Class Period, Plaintiffs and the members of the Class paid  
 17 supracompetitive prices for Lithium Ion Batteries and Lithium Ion Battery Products.

18       297. By reason of the alleged violations of the antitrust laws, Plaintiffs and the members  
 19 of the Class have sustained injury to their businesses or property, having paid higher prices for  
 20 Lithium Ion Batteries and Lithium Ion Battery Products than they would have paid in the absence  
 21 of Defendants' illegal contract, combination, or conspiracy, and as a result have suffered damages.  
 22 This is an antitrust injury of the type that the antitrust laws were meant to punish and prevent.

23 **IX. ACTIVE CONCEALMENT**

24       298. Plaintiffs and the members of the Class had no knowledge of the combination or  
 25 conspiracy alleged in this Complaint, or of facts sufficient to place them on inquiry notice of their  
 26 claims, until the public disclosures of the government investigations into Lithium Ion Battery  
 27 price-fixing began in May 2011.

1       299. Prior to the public disclosure of government investigations beginning in May 2011,  
 2 no information in the public domain or available to the Plaintiffs and the members of the Class  
 3 suggested that any Defendant was involved in a criminal conspiracy to fix prices for Lithium Ion  
 4 Batteries.

5       300. Because Defendants kept their conspiracy secret until at least May 2011, Plaintiffs  
 6 and members of the Class did not know before then that they were paying suprareactive prices  
 7 for Lithium Ion Batteries and Lithium Ion Battery Products.

8       301. Defendants successfully concealed their conspiratorial conduct by, among other  
 9 things: making false public statements suggesting that the market for Lithium Ion Batteries was  
 10 competitive; directing their employees to destroy incriminating documents; undertaking to avoid  
 11 creation of a paper documentation of collusive activity; and agreeing to withhold from purchasers  
 12 potentially incriminating information.

13       302. During the relevant period, Defendants made numerous misleading public  
 14 statements falsely portraying the market for Lithium Ion Batteries as a competitive one. For  
 15 example:

16           a.       In a February 2, 2004 presentation to investors entitled “2003 Business  
 17 Results & 2004 Outlook,” LG declared its “[a]im to enter Top-tier [of the rechargeable battery  
 18 market] by ’05 through expanding customer bases with product differentiation and preceding  
 19 R&D.” In a section of the presentation titled “Competition Status,” LG described the Lithium Ion  
 20 Battery market as “aggressive,” with its competitors focused on “capacity expansion,” “intensive  
 21 investment,” and a “[s]trategy to sustain [a] leading position.” At the time LG made these  
 22 statements about the competitive state of the market it knew that they were false. LG was a  
 23 member of the conspiracy and knew that the Lithium Ion Battery producers were not competing  
 24 against each other aggressively but, rather, conspiring to avoid price competition.

25           b.       Panasonic stated in its 2005 Annual Report that, “[a]mid intensifying  
 26 global competition in the rechargeable battery market, the Company focuses management  
 27 resources on lithium-ion batteries.” In 2007, the company stated that “Matsushita’s business is  
 28 subject to intense price competition worldwide. . . .” Panasonic knew when it made these

1 statements that they were false because Defendants, who accounted for the vast majority of  
 2 Lithium Ion Batteries sold worldwide, had previously agreed not to compete on price.

3           c.       In 2010, Panasonic stated that, “[w]e anticipate the harsh price competition  
 4 with South Korean makers will continue. We are reviewing our production process to strengthen  
 5 our cost competitiveness so that we can win the battle.” Similarly, a Sony spokesman stated in  
 6 2010 that “Sony anticipates a difficult environment for the battery business because of competition  
 7 and price declines.” By 2010, of course, these and other Japanese suppliers had agreed for more  
 8 than a decade not to compete on price with Korean makers of Lithium Ion Batteries.

9           303. Defendants also undertook to conceal their actions by instructing employees to  
 10 destroy incriminating documents. For example, an internal LG email dated February 26, 2004,  
 11 that detailed a meeting that day between LG and Sony executives concerning Lithium Ion Battery  
 12 pricing, stated “[p]lease discard after reading.” Similarly, an April 4, 2004 internal LG email  
 13 relating price-fixing conversations among Defendants implored: “please make sure that you  
 14 maintain internal and external security regarding the email, so that people other than the recipients  
 15 on the list cannot access the email.”

16           304. Additional LG emails detailing conspiratorial conversations and meetings among  
 17 Defendants contained explicit instructions to “delete . . . upon reading,” “[p]lease share this email  
 18 only with people on the recipients list, and delete it immediately upon reading,” and “[p]lease  
 19 make sure that each related personnel takes a look at this mail and delete it.” Emails bearing such  
 20 instructions were transmitted on at least the following dates: May 11, 2007, August 1, 2007,  
 21 January 31, 2008, October 13, 2008, and October 14, 2008.

22           305. Defendants further concealed their conduct by avoiding the creation of a paper trail  
 23 in the first instance. A December 10, 2010 internal LG email regarding price fixing with “D  
 24 Company” stated, “when you have conversations with [D Company], never leave any written or  
 25 evidence [sic].” In a February 15, 2011 LG internal email chain also with regard to “D Company”  
 26 (believed to be Samsung), LG executive J.H. Lee explained that “it seems our communication  
 27 content is too direct.” Lee’s LG colleague responded: “Well understood. And I will be careful  
 28 about contact.”

1       306. In addition, Defendants jointly prohibited customer access to their Lithium Ion  
 2 Battery pricing formulas in order to conceal their price collusion and the pretextual nature of their  
 3 price increase justifications. At a February 27, 2008 restaurant meeting between LG and Sanyo,  
 4 LG emphasized that: “Regarding price increase, need to deliver a message again that the [pricing]  
 5 formula should not be opened to customers.” Sanyo responded “positively” to LG’s proposal to  
 6 prevent customers from accessing the formula behind the price increases. Sanyo also confirmed to  
 7 LG that “Sony does not open [its] pricing formula to customers.”

8       307. Similarly, at a January 27, 2008 meeting between LG and Sanyo at the Narita  
 9 Airport, Sanyo inquired as to whether LG “has an internal formula explained to customers at the  
 10 time of price increase.” LG then proposed that “each company’s confidential information, such as  
 11 costs, should not be opened to the customers.”

12      308. As alleged in Section VI.C. and elsewhere in this Complaint, Defendants took  
 13 other affirmative acts to conceal their wrongdoing, including offering pretextual justifications for  
 14 collusive price increases; arranging clandestine meetings and phone calls among themselves to  
 15 exchange pricing, production, and other competitive, non-public information; using personal email  
 16 accounts and coded messages when arranging meetings; and on at least one occasion meeting in a  
 17 private room at a restaurant so as not to be seen or heard by others.

18      309. Defendants’ anticompetitive conspiracy, by its very nature, was self-concealing.  
 19 Lithium Ion Batteries are not exempt from antitrust regulation, and thus, before May 2011,  
 20 Plaintiffs reasonably considered it to be a competitive industry. Accordingly, a reasonable person  
 21 under the circumstances would not have been alerted to begin to investigate the legitimacy of  
 22 Defendants’ Lithium Ion Battery prices before May 2011.

23      310. Plaintiffs exercised reasonable diligence. Plaintiffs and the members of the Class  
 24 could not have discovered the alleged conspiracy at an earlier date by the exercise of reasonable  
 25 diligence because of the deceptive practices and techniques of secrecy employed by Defendants  
 26 and their Co-Conspirators to conceal their combination.

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1       311. As a result of Defendants' concealment, the running of any statute of limitations  
 2 has been tolled with respect to any claims that Plaintiffs and the members of the Class allege in  
 3 this Complaint.

4 **X. VIOLATION OF SECTION 1 OF THE SHERMAN ACT**

5       312. Plaintiffs incorporate by reference the allegations in the preceding paragraphs.

6       313. Defendants and their Co-Conspirators entered into and engaged in a combination or  
 7 conspiracy in unreasonable restraint of trade in violation of Section 1 of the Sherman Act, 15  
 8 U.S.C. § 1.

9       314. Defendants' acts in furtherance of their combination or conspiracy were authorized,  
 10 ordered, or done by their officers, agents, employees, or representatives while actively engaged in  
 11 the management of Defendants' affairs.

12       315. At least as early as January 2000, and continuing until such time as the  
 13 anticompetitive effects of Defendants' conduct ceased, the exact dates being unknown to  
 14 Plaintiffs, Defendants and their Co-Conspirators entered into a continuing agreement,  
 15 understanding and conspiracy in restraint of trade to fix, raise, stabilize, and maintain prices for  
 16 Lithium Ion Batteries, thereby creating anticompetitive effects.

17       316. Defendants' anticompetitive acts involved United States domestic commerce and  
 18 import commerce, and had a direct, substantial, and foreseeable effect on interstate commerce by  
 19 raising and fixing prices for Lithium Ion Batteries throughout the United States.

20       317. The conspiratorial acts and combinations have caused unreasonable restraints in the  
 21 market for Lithium Ion Batteries.

22       318. As a result of Defendants' unlawful conduct, Plaintiffs and the members of the  
 23 Class have been harmed by being forced to pay inflated, supracompetitive prices for Lithium Ion  
 24 Batteries and Lithium Ion Battery Products.

25       319. In formulating and carrying out the alleged agreement, understanding and  
 26 conspiracy, Defendants and their Co-Conspirators did those things that they combined and  
 27 conspired to do, including but not limited to the acts, practices, and course of conduct set forth in  
 28 this Complaint.

1           320. Defendants' conspiracy had the following effects, among others:

2           a. Price competition in the market for Lithium Ion Batteries has been  
3 restrained, suppressed, and/or eliminated in the United States;

4           b. Prices for Lithium Ion Batteries sold by Defendants, their divisions,  
5 subsidiaries, and affiliates, and their Co-Conspirators have been fixed, raised, stabilized, and  
6 maintained at artificially high, non-competitive levels throughout the United States; and

7           c. Plaintiffs and members of the Class who purchased Lithium Ion Batteries  
8 or Lithium Ion Battery Products from Defendants, their divisions, subsidiaries, and affiliates, and  
9 their Co-Conspirators have been deprived of the benefits of free and open competition.

10          321. As a direct and proximate result of Defendants' anticompetitive conduct, Plaintiffs  
11 and members of the Class have been injured in their business or property and will continue to be  
12 injured in their business and property by paying more for Lithium Ion Batteries and Lithium Ion  
13 Battery Products than they would have paid and will pay in the absence of the conspiracy.

14          322. The alleged contract, combination, or conspiracy is a *per se* violation of the federal  
15 antitrust laws.

16 **XI. REQUEST FOR RELIEF**

17 WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

18          A. The Court determine that this action may be maintained as a class action under  
19 Rule 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure, appoint Plaintiffs as Class  
20 Representatives and their counsel of record as Class Counsel, and direct that notice of this action,  
21 as provided by Rule 23(c)(2) of the Federal Rules of Civil Procedure, be given to the Class;

22          B. The unlawful conduct, conspiracy or combination alleged herein be adjudged and  
23 decreed:

24           a. An unreasonable restraint of trade or commerce in violation of Section 1 of  
25 the Sherman Act; and

26           b. A *per se* violation of Section 1 of the Sherman Act;

27          C. Plaintiffs and the Class recover damages, to the maximum extent allowed under  
28 federal antitrust laws, and that a joint and several judgment in favor of Plaintiffs and the members

1 of the Class be entered against Defendants in an amount to be trebled to the extent such laws  
2 permit;

3 D. Defendants, their affiliates, successors, transferees, assignees and other officers,  
4 directors, partners, agents and employees thereof, and all other persons acting or claiming to act on  
5 their behalf or in concert with them, be permanently enjoined and restrained from in any manner  
6 continuing, maintaining or renewing the conduct, conspiracy, or combination alleged herein, or  
7 from entering into any other conspiracy or combination having a similar purpose or effect, and  
8 from adopting or following any practice, plan, program, or device having a similar purpose or  
9 effect;

10 E. Plaintiffs and the members of the Class be awarded pre- and post- judgment interest  
11 as provided by law, and that such interest be awarded at the highest legal rate from and after the  
12 date of service of this Complaint;

13 F. Plaintiffs and the members of the Class recover their costs of suit, including  
14 reasonable attorneys' fees, as provided by law; and

15 G. Plaintiffs and the members of the Class have such other and further relief as the  
16 case may require and the Court may deem just and proper.

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**JURY TRIAL DEMANDED**

Plaintiffs demand a trial by jury, pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, of all issues so triable.

Dated: March 26, 2014

Respectfully submitted,

/s/ Bruce L. Simon

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